

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT ON LIABILITY

Alek Schott v. Bexar County, Texas
Case No. 5:23-cv-00706-OLG-RBF

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ALEK SCHOTT,
Plaintiff,

§

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§

§

VS.

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§

JOEL BABB, in his individual
and official capacity;
MARTIN A. MOLINA III, in his
individual and official
capacity; JAVIER SALAZAR, in
his individual and official
capacity; and BEXAR COUNTY,
TEXAS,
Defendants.

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CIVIL ACTION NO.
5:23-cv-00706-OLG-RBF

ORAL DEPOSITION OF
JOEL BABB
JULY 15, 2024

ORAL DEPOSITION of JOEL BABB, produced as a
witness at the instance of the Plaintiff(s), and duly
sworn, was taken in the above-styled and numbered cause
on July 15, 2024, from 9:22 a.m. to 5:19 p.m., before
Molly Carter, Certified Shorthand Reporter in and for the
State of Texas, reported by machine shorthand, at the Law
Offices of Charles S. Frigerio, 111 Soledad, Suite 465,
San Antonio, Texas, pursuant to the Federal Rules of
Civil Procedure.

A P P E A R A N C E S

FOR THE PLAINTIFF(S):

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1 JOEL BABB,
2 having been first duly sworn, testified as follows:

3 E X A M I N A T I O N

4 BY MS. HEBERT:

5 Q Good morning, Mr. Babb.

6 A Good morning, ma'am.

7 Q My name is Christie Hebert.

8 A Okay.

9 Q And I represent Alek Schott, the Plaintiff in
10 this case.

11 A Okay.

12 Q And we're here to talk to you, ask you a couple
13 of questions today. You just took your oath. I'm joined
14 here by my colleague, Jeff. Jeff Rowes.

15 A Okay.

16 Q Then we've got Molly, the court reporter here,
17 she's going to take down everything that you say.

18 A Yes, ma'am.

19 Q Unless she's told otherwise to stop.

20 A Okay.

21 Q And obviously Blair, your Counsel here, is
22 here. Then we're joined by Charles and Hector, who
23 represent the County.

24 A Okay.

25 Q We're going to do the usual stipulations in

1 this case --

2 A Okay.

3 Q -- which means that you're here, so you're
4 waiving any defects to your deposition notice.

5 A Uh-huh.

6 Q And then you're also waiving any objections to
7 Molly's qualifications as the court reporter.

8 So I'm going to start by just getting your full
9 name on the record.

10 A Okay.

11 Q What is your name?

12 A Joel Babb.

13 Q Okay. And then it's okay if I call you
14 Mr. Babb?

15 A Yeah.

16 Q Okay. Just want to make sure. Is there
17 something else you'd prefer instead?

18 A You can call me by my first name if you want,
19 ma'am. It's up to you.

20 Q Thank you. And before we go on, I'd like to go
21 over just a couple of like housekeeping matters.

22 A Okay.

23 Q Have you ever testified under oath before?

24 A No.

25 Q Okay. So you've never had your deposition

1 taken before?

2 A No, ma'am.

3 Q Okay. And then you understand that you are
4 under oath today, Molly just administered your oath?

5 A Yes, ma'am.

6 Q And that means that you're testifying here in
7 this room the same as if you were testifying before a
8 judge or in a court.

9 A Yes, ma'am.

10 Q You understand that?

11 A Uh-huh.

12 Q Okay. We're creating a record today, so it's
13 important that I need to ask clear questions.

14 A Okay.

15 Q So if I don't ask a clear question, please let
16 me know and I'll rephrase and we'll figure out what's
17 going on, where our disconnect is.

18 A Okay.

19 Q Please do not shake your head or nod when
20 you're answering, because obviously Molly can't capture
21 that when she's writing things.

22 A Yes, ma'am.

23 Q So "yes, ma'am" is great. That's perfect. But
24 try to avoid like an "uh-huh" or a "yeah" or just like,
25 you know (nodding head) --

1 A Okay.

2 Q -- one of those ambiguous things, because then
3 your answer is not clear for you or for us.

4 A Okay.

5 Q Please try not to start answering a question
6 before I finish asking it. So sometimes you know where
7 I'm going to be going with it or you know the rest of the
8 question before I get to the end. But let me finish, and
9 I'll try to do the same for you.

10 A Okay.

11 Q Sometimes I'll know where you're going with a
12 particular answer, and I have to try to let you finish so
13 that it's not jumping all over each other and then we're
14 trying to figure out what you said.

15 A Okay.

16 Q If you don't know the answer to a question,
17 it's okay. You may say so. But if you do know the
18 answer to a question, you're required to provide it.

19 A Okay.

20 Q Your attorney, Mr. Leake, may state an
21 objection when I ask a question. That doesn't mean I've
22 asked necessarily a bad question. It just means that for
23 the -- the purpose of the objection is to preserve for
24 the record later, if we want to use the question,
25 Mr. Leake can argue to the court that it was an improper

1 question.

2 A Yes, ma'am.

3 Q So you still have to answer the question unless
4 Mr. Leake instructs you not to answer.

5 A Okay.

6 Q Do you understand?

7 A Uh-huh. Yes, ma'am.

8 Q Okay. And if you want to take a break -- a
9 break or get a drink or need a snack or you need to
10 review a document more, feel free to say so, and we'll go
11 off the record and do that. The only thing I would ask
12 is that you finish answering whatever question is asked,
13 so then we just are clean and that's done, and then you
14 can take a break.

15 A Yes, ma'am.

16 Q We're going to look at some documents today.

17 A Okay.

18 Q You have the right to read and understand those
19 documents --

20 A Okay.

21 Q -- in their entirety. I'm not trying to trick
22 you. I'm just going to focus on certain parts of the
23 documents so that, you know, we don't have to ask
24 questions about every little thing.

25 A Uh-huh.

1 Q So if you need to read something, feel free to
2 say, Hey, I need to review this. And we'll take a break
3 and you can do that. Or if it's shorter, we can just
4 wait for you to finish.

5 A Okay.

6 Q We're also going to look at some videos today.
7 You have the same right. So I have, to save time,
8 identified clips or pieces of the video to just look at.
9 It is your right, now and after the deposition, to watch
10 the entirety of the video --

11 A Uh-huh.

12 Q -- before testifying and after testifying, just
13 so we're clear.

14 A Okay.

15 Q And that goes for the entire conversation. I'm
16 not looking to trick you. It's my job to ask you a
17 series of questions and to get your answers under oath
18 based on your knowledge or your memory. Do you
19 understand that?

20 A Yes, ma'am.

21 Q Okay. Now, as we're talking here today, is
22 there any reason that you are not able to give your
23 fullest and best testimony, like you're taking an
24 impairing medicine?

25 A No, ma'am.

1 Q Did you have any alcohol to drink today?

2 A No, ma'am.

3 Q Are you generally clear-headed today to
4 testify?

5 A Yes, ma'am.

6 Q Okay. Other than speaking with your attorney,
7 with Mr. Blair -- Mr. Leake -- sorry, Mr. Blair -- is
8 there anything that you did to prepare for today's
9 deposition?

10 A Other than review documents, no, ma'am.

11 Q Okay. What documents did you review?

12 A My report.

13 Q Okay. And when you say "my report" --

14 A The report for the incident that I'm here for
15 today, ma'am.

16 Q Okay. And when you say that, do you mean the
17 document titled SPEARS Summary at the top?

18 A Yes.

19 Q Okay.

20 A I want to clarify that. The SPEARS Summary, I
21 believe every summary report I've done in my career is
22 labeled that on the top.

23 Q Right.

24 A So the one dealing with Mr. Schott --

25 Q I appreciate you clarifying that. So you

1 reviewed the SPEARS Summary report for the stop of Alek
2 Schott.

3 A Yes, ma'am.

4 Q Okay. Did you review any videos?

5 A No. Oh, yes, I did.

6 Q Okay. What videos did you review?

7 A Just the traffic stop video.

8 Q And when you say "the traffic stop video," you
9 mean --

10 A Of Alek Schott.

11 Q -- the traffic stop video of Alek Schott?

12 A Yes. It was two years ago. I wanted to review
13 it.

14 Q Okay, thank you. Any other materials?

15 A No, ma'am.

16 MR. LEAKE: Do you want me to jump in? There
17 are a couple of things I want to make sure we're not
18 leaving out. You also reviewed some of the
19 conversations.

20 THE WITNESS: Yes, ma'am.

21 MR. LEAKE: And there were a couple of other
22 videos we reviewed that all relate to the incident.
23 Molina's body cam of the search.

24 THE WITNESS: Yes.

25 MR. LEAKE: And also the camera video of

1 Plaintiff.

2 THE WITNESS: Yes.

3 MR. LEAKE: His dash cam.

4 MS. HEBERT: Say that one again, I'm sorry.

5 MR. LEAKE: Plaintiff's dash cam.

6 MS. HEBERT: Oh, Alek's dash cam. Okay.

7 Mr. Schott's.

8 MR. LEAKE: I can't think of anything else you
9 reviewed, but I just want to make sure that we're all
10 above board here --

11 MS. HEBERT: Thank you.

12 MR. LEAKE: -- everything is disclosed.

13 MS. HEBERT: I appreciate that.

14 Q (By Ms. Hebert) Okay. So I just want to make
15 sure I got all of that in summary.

16 A Uh-huh.

17 Q You reviewed your SPEARS Summary report for the
18 stop of Mr. Schott, you reviewed your body camera
19 footage --

20 A Yes, ma'am.

21 Q -- from the stop of Mr. Schott. You reviewed
22 some text message conversations.

23 A Yes, ma'am.

24 Q You reviewed the body camera footage from
25 Officer Molina.

1 A Yes, ma'am.

2 Q The body camera footage from Officer Gereb.

3 A No --

4 Q No?

5 A -- I didn't watch that one.

6 Q And then you reviewed the dash cam footage from
7 Alek Schott.

8 A Yes, ma'am.

9 Q Okay. And when you say you reviewed the
10 conversations, did you review specific conversations --

11 A Yes, ma'am. The ones that --

12 Q -- or did you review all of them?

13 A Well, not -- when I first got those messages, I
14 reviewed them.

15 Q Sure.

16 A They were hard to understand because of the way
17 it was on that spreadsheet.

18 Q Sure.

19 A So the best I could, I reviewed them. But last
20 night it was specific ones that I believe we needed to
21 look at, that I think we sent to you, ma'am.

22 Q Okay. So you reviewed the conversations that I
23 asked you to identify --

24 A Yes, ma'am.

25 Q -- who they were with?

1 A Yes, ma'am.

2 Q Okay. And if we get to conversations today and
3 you already reviewed them, let me know.

4 A Absolutely, ma'am.

5 Q Okay. Did you have any conversations with
6 anyone other than Mr. Leake --

7 A No, ma'am.

8 Q -- to prepare for this deposition?

9 A No, ma'am.

10 Q Did you speak with Deputy Molina?

11 A No, ma'am.

12 Q Did you speak with Deputy Gereb?

13 A No, ma'am.

14 Q And Sergeant Gamboa?

15 A No, ma'am.

16 Q Okay. Did you bring any documents with you
17 today?

18 A No, I did not, ma'am.

19 Q And did you bring your cell phone with you
20 today?

21 A It's right here, ma'am.

22 Q Okay. And if we need to ask you to look
23 something up, you can do that?

24 A Yes, ma'am.

25 Q Okay. We're going to talk a lot about the

1 Bexar County Sheriff's Office today.

2 A Okay, ma'am.

3 Q Okay. And so can we agree when I say
4 "Sheriff's Office," we're talking about the Bexar County
5 Sheriff's Office?

6 A Yes, ma'am.

7 Q And can we agree when I say "Sheriff," I'm
8 talking about Javier Salazar, the current Sheriff of
9 Bexar County Sheriff's Office?

10 A Yes, ma'am.

11 Q Okay. So now that the preliminaries are done,
12 that's kind of generally how it's going to go. I'm going
13 to ask you a couple of general questions.

14 A Yes, ma'am.

15 Q Where are you from?

16 A I am from originally Alfred, Maine. I was born
17 in Norwalk, Connecticut.

18 Q Okay. Where is Alfred, Maine?

19 A Alfred, Maine is southern Maine, the state of
20 Maine, up northeast.

21 Q Okay, cool. How did you wind up in Texas?

22 A When I got out of the military, I was with a --
23 I was married to a woman that I was married to for twelve
24 years, and we came back here to San Antonio where her
25 family was. I'm no longer married to her.

1 Q Okay. But you're still here in the
2 San Antonio --

3 A I stayed here.

4 Q -- area?

5 A Yeah.

6 Q What did you do before you became a police
7 officer?

8 A I was in the United States Army as an
9 infantryman.

10 Q And how long did you serve?

11 A 18 years, ma'am.

12 Q 18 years. That's a long time. Thank you for
13 your service.

14 A Thank you, ma'am.

15 Q Did you go straight into the Army after high
16 school?

17 A Yes, ma'am.

18 Q Okay. And you served overseas then?

19 A Three tours, ma'am.

20 Q Thank you.

21 A Combat tours, and other places.

22 Q Where did you serve?

23 A I've been to Fort Lewis, Washington; Korea;
24 Fort Campbell, Kentucky; Fort Hood, Texas; Germany,
25 Hohenfels, Germany; Hawaii, Schofield Barracks. And then

1 combat deployments, two in -- or one in Afghanistan, two
2 in Iraq, all year tours, so three years of combat total.

3 Q Wow. Okay. So when did you leave the
4 military?

5 A 2015.

6 Q Okay. And why did you leave?

7 A I left during the, the Q -- I got downsized.
8 During the downsize, I had left at 18 years.

9 Q And so I guess you retired with full benefits
10 that way -- that's a long period of service.

11 A Yeah, I was 18 years, and I just came out on --
12 it was during the downsize.

13 Q Okay.

14 A So I actually came out with like an ETS at 18
15 years, so --

16 Q Wow. Okay. So did you join the Sheriff's
17 Office immediately after --

18 A Yes, ma'am. There was no --

19 Q -- finishing --

20 A I was actually -- when I was in the detention
21 academy, I was actually being paid by the Army and on my
22 terminal leave still, so yes.

23 MR. LEAKE: Just for her sake, make sure to let
24 her finish her questions before you jump in.

25 THE WITNESS: Yes, yes.

1 MR. LEAKE: She'll throw a stapler at one of
2 our heads. So just let her finish her questions.

3 MS. HEBERT: Molly's not that violent. Right,
4 Molly?

5 THE REPORTER: I'll try not to.

6 THE WITNESS: I'll move closer so you can pinch
7 me.

8 Q (By Ms. Hebert) Okay. So you joined the
9 Sheriff's Office immediately after -- well, basically on
10 the tail end of your Army service.

11 A Yes, ma'am.

12 Q Okay. And any other jobs between or around the
13 time you left?

14 A No, ma'am.

15 Q So the two jobs you've done is work for the
16 Army and the Sheriff's Office --

17 A Yes, ma'am.

18 Q -- is that fair?

19 Okay. I'd like to start by talking about kind
20 of the elephant in the room.

21 A Okay.

22 Q I understand that you were recently dismissed
23 from the Sheriff's Office.

24 A Yes, ma'am.

25 Q And I want to be fair to you and fully

1 transparent about that, and I really am sorry for the
2 difficulties that you are facing because of that.

3 And I also want to put on the record that Alek
4 Schott's stop was in 2022, but you weren't dismissed
5 until June 2024; is that correct?

6 A Yes, ma'am.

7 Q And immediately before you were dismissed, what
8 was your role with the Sheriff's Office?

9 A I was a training instructor academy -- or an
10 academy instructor for the law enforcement and the
11 detention side.

12 Q Okay. So you were an instructor for the
13 Sheriff's Office Law Enforcement Academy; is that
14 correct?

15 A Yes, ma'am. I taught detention, also patrol.

16 Q Okay.

17 A So the two sides for the two bureaus of --
18 detention and law enforcement bureau.

19 Q Okay. I'll ask you more about that later.

20 A Okay.

21 Q And when did you leave the Criminal
22 Interdiction Unit?

23 A I don't know exactly the date, but I was in
24 instruction for approximately a year and a half.

25 Q Okay. So before you were dismissed, you were

1 working in the instruction, and previously you were in
2 criminal interdiction.

3 A Yes, ma'am.

4 Q And you've been in the instructor role for a
5 year and a half before you were dismissed?

6 A Approximately, ma'am, yes.

7 Q Can you give me the approximate dates you were
8 part of the Criminal Interdiction Unit?

9 A So I was interdiction for about a year. So --
10 and this is very vague what I am telling you, because I'm
11 just really bad with dates. Now my files for sure --

12 Q I might have it. Hold on.

13 A I was just going to say, yeah, if you have
14 files, I can have exact dates for you.

15 Q Hold on. Just give me a second. Exhibit H.
16 I'm going to mark this Exhibit 42. I'm going to hand
17 this to you.

18 A Yes, ma'am.

19 MR. LEAKE: Do you have a copy for me as well?

20 MS. HEBERT: Uh-huh.

21 Q (By Ms. Hebert) I'll give you a second to
22 review that document.

23 A Okay.

24 Q Let me know when you're ready.

25 A (Reviewing document.) All right.

1 Q Okay. And so based on this, you were a
2 detention -- you worked in detention from 2015 to 2018?

3 A Yes, ma'am.

4 Q And then patrol from 2018 to 2021?

5 A Yes, ma'am.

6 Q And then you became part of the Special
7 Enforcement Unit in 2021, May of 2021?

8 A Uh-huh.

9 Q And then you became part of the training
10 academy in July of 2022.

11 A Yes, ma'am.

12 Q Is that all correct?

13 A Yes.

14 Q And this document is your employment history
15 document; is that fair?

16 A Yes, ma'am.

17 Q Okay. And when you were part of the Special
18 Enforcement Unit, is that when you were part of the
19 Criminal Interdiction Unit?

20 A Yes, ma'am.

21 Q So would it be fair to say that you were part
22 of the Criminal Interdiction Unit from May of 2021 to
23 July of 2022?

24 A Yeah. It looks like most of July, if I left on
25 July 23, so yes.

1 Q So May of '21 to nearly August of 2022?

2 A Yes, ma'am.

3 Q Okay. And is it fair to say when you were
4 dismissed from the Sheriff's Office, you had been gone
5 from criminal interdiction for nearly two years?

6 A Yes, ma'am.

7 Q And would you say that leaving special -- the
8 Special Enforcement Unit and going to the training
9 academy was a promotion?

10 A No. Actually, I wouldn't say that. What I can
11 tell you is that the reason I went to the training
12 academy is it's a passion to teach. I was an OCS
13 instructor in the Army. So I have experience in it, and
14 I was planning on testing for investigator. So you
15 cannot be an instructor by the time you're an
16 investigator, so I was kind of on a time clock to get the
17 other passionate position I wanted before I could go into
18 detective, which would have been a promotion.

19 Q Okay. So you just -- you wanted to do both --

20 A Yes.

21 Q -- teach and be an instructor, and so you were
22 teaching first?

23 A No. I was a --

24 MR. LEAKE: Objection, form. Go ahead and
25 answer.

1 A Okay. So I was actually in the Interdiction
2 Unit and then I went to become an instructor.

3 Q (By Ms. Hebert) Okay.

4 A Teaching was what I was -- in the Army, I was
5 an officer candidate school instructor.

6 Q Okay. Got it. And you transitioned to the
7 training academy because you wanted to return to
8 teaching; is that fair?

9 A Yes, ma'am.

10 Q In general, do you think the Sheriff's Office
11 wants officers who are following the policies of the
12 Sheriff's Office to train officers?

13 A Absolutely.

14 MR. LEAKE: Objection, form.

15 Q (By Ms. Hebert) If Mr. Leake objects, feel free
16 to just take a pause. That's his right to object.

17 A Okay.

18 Q And then you still have to answer the question
19 unless Mr. Leake instructs you not to answer.

20 A Okay.

21 Q So in general, would you agree that the
22 Sheriff's Office wants officers who are following the
23 policies of the Sheriff's Office to train new officers?

24 MR. LEAKE: Objection, form.

25 A Yes, ma'am.

1 MR. LEAKE: Can we agree that objection for one
2 is objection for all, just so --

3 MR. SAENZ: Yeah.

4 MS. HEBERT: That's -- absolutely.

5 MR. SAENZ: That's good. Thank you.

6 MS. HEBERT: Unless Charles and Hector feel
7 like you're not objecting, I'm going to assume you're the
8 objecting party.

9 MR. LEAKE: No, Hector can object as well. I
10 just find that it gets hard for her if we're both
11 announcing an objection at the same time and she has to
12 write it down for both of us each time.

13 MS. HEBERT: Sure, that's fine.

14 THE REPORTER: Thank you.

15 Q (By Ms. Hebert) Do you believe the Sheriff's
16 Office tries to put officers who are doing police work in
17 the right way in charge of training the next generation
18 of the officers?

19 MR. LEAKE: Objection, form.

20 A I do, ma'am.

21 Q (By Ms. Hebert) And would it be fair to say
22 that when the Sheriff's Office made you an instructor, it
23 was saying that you were one of its best officers?

24 MR. LEAKE: Objection, form.

25 A Yes, ma'am.

1 Q (By Ms. Hebert) And before Alek Schott filed
2 this lawsuit, had the Sheriff's Office ever disciplined
3 you for any misconduct?

4 A Yes, ma'am.

5 Q Okay. What was that misconduct?

6 A One was the -- actually, I think the only thing
7 I have is a crash that I had in a parking lot, where I
8 was -- I was sitting in a parking lot in my vehicle. And
9 I was actually doing work for patrol, looking at
10 different things at a hotel.

11 And what I did was I took my foot off the gas,
12 or off the brake by mistake. And as embarrassing as it
13 is, there was a pole right here, and I was sitting there
14 on my computer, and from about 5 feet, I hit a pole.

15 Q Okay.

16 A And they actually -- it was an accident. And
17 it was from a static position. But I did get a, I
18 believe it was, if I remember correctly, a letter of
19 counseling. And you probably have that on file also if
20 you want to verify.

21 Q Okay. But other than that minor incident, did
22 you have any other discipline from the Sheriff's Office
23 during your time with the Sheriff's Office?

24 A So the only time that I can think of -- and I
25 don't think I was disciplined for it because it was

1 cleared -- was when I was in the jail. In the three
2 years I worked there, I had one grievance, and it was
3 from a inmate who, when I was escorting him, he threw
4 himself on the ground and then claimed in a grievance
5 that I assaulted him. But I don't believe there was any
6 discipline for that, because it was -- I think they saw
7 camera footage, and it was over there. But that's the
8 only somewhat negative thing I can think of other -- in
9 the last nine-and-a-half years it's been.

10 Q Okay. So you had one minor accident with a
11 light pole, a pole?

12 A Yes, ma'am.

13 Q And then you had one jail grievance; is that
14 fair?

15 A Yes, ma'am.

16 Q Anything else that I'm missing?

17 A Nope, that is it.

18 Q Okay. Are you aware that Mr. Schott called the
19 Sheriff's Office two days after you stopped him on
20 March 18 to complain about the traffic stop?

21 A What I was told was that Alek Schott had called
22 and he had actually reported damage to a part of his
23 vehicle. I was aware of that.

24 Q So you were -- to make sure I understand, you
25 were aware that Mr. Schott called in March of 2022 to

1 report some damage to his vehicle?

2 A Yes, ma'am.

3 Q Okay. And how did you first learn that
4 Mr. Schott complained about the damage to his vehicle?

5 A I believe it was my sergeant that told me, he
6 had given me a heads up that there was a call or a
7 complaint.

8 Q Okay. And would that be Sergeant Gamboa?

9 A Yes, ma'am.

10 Q And do you remember how Sergeant Gamboa told
11 you about Mr. Schott potentially complaining about
12 damage? Did he -- to be clear, did he call, did he text,
13 did you run into him in the hallway? So do you remember
14 how Mr. -- or Sergeant Gamboa told you about this
15 complaint?

16 A I think it was in person. And I say I think
17 because, again, this was so long ago, I just know that it
18 was from him. But it was most likely in person, either
19 over breakfast, because I know we would eat breakfast on
20 occasion.

21 Q And when you say "eat breakfast," was that part
22 of your shift?

23 A Yes, we would eat during shift.

24 Q Okay. So to clarify, you would eat breakfast
25 to start the day sometimes with Sergeant Gamboa?

1 A Yes, ma'am.

2 Q And who else would join you in these
3 breakfasts?

4 A Usually Deputy Gereb. Me and him were the only
5 two interdiction officers for the interdiction teams.

6 Q Would you say that these breakfasts happened
7 every, every time you started a shift in the morning?

8 A No, ma'am.

9 Q How often would you say the breakfasts
10 happened?

11 A If I was to put a number on it, at least two.

12 Q Two?

13 A And that's not -- this isn't like specifics.
14 I'm just saying if I was -- two times a week maybe.

15 Q So you would estimate that you had breakfast
16 with Sergeant Gamboa and Deputy Gereb two times a week?

17 A At least, yes, ma'am.

18 Q Okay. Thank you. And do you -- I want to
19 return to the complaint by Mr. Schott. Do you recall at
20 all what Sergeant Gamboa told you about the complaint by
21 Mr. Schott?

22 A No. I just remember him -- the only thing I
23 remember is him saying that he called and had said that
24 there was damage to the, I think it was the rear of the
25 vehicle.

1 Q And the "he" you're referring to is Mr. Schott?

2 A Yes, ma'am.

3 Q Mr. Schott called?

4 A Yes, ma'am.

5 Q After Mr. Schott's initial complaint, did
6 anybody with the Sheriff's Office suggest you had done
7 anything wrong?

8 A No, ma'am. So when I get those complaints,
9 just so you know, I don't actually go in and get involved
10 with it unless they call me. So once I heard that, it
11 was just okay. And then if I heard from IA, I heard from
12 IA. That's kind of how I would go with it. So at that
13 point, no, that was all I knew.

14 Q Okay.

15 A And I just kind of let things happen to see if
16 I was going to get the call.

17 Q I understand. But did anybody from the
18 Sheriff's Office suggest that you, Mr. Babb, had done
19 anything wrong at that initial point when you heard about
20 the complaint?

21 A No, ma'am.

22 Q Okay. Did anyone ask you about your dash
23 camera?

24 A No, ma'am.

25 Q Were you aware that the Internal Affairs

1 department opened a formal investigation into
2 Mr. Schott's complaint in 2022?

3 A I was not aware.

4 Q Okay. Do you know now that they opened a
5 formal investigation into Mr. Schott's complaint in 2022?

6 A Yes, ma'am.

7 Q Okay. And do you know what the results of that
8 2022 investigation were?

9 A Yes, ma'am.

10 Q Okay. In your own words, what were the results
11 of that 2022 investigation?

12 MR. LEAKE: Objection, form.

13 A What I had heard was that the case was closed,
14 that they had reviewed the video and that there was
15 nothing wrong. And then later on, I heard -- and again,
16 this is -- this isn't me sitting down and them informing
17 me what's going on.

18 Q (By Ms. Hebert) Sure.

19 A This is through word of mouth or rumor. I had
20 heard that Mr. Schott had been paid out for a dog
21 scratching the car. And this was months later. So
22 again, none of -- there was never like a forum where I
23 sat down and they said there was an IA investigation and
24 here's how it went. This is all just through hearing
25 what happened. And that's kind of the norm with these

1 situations.

2 Q And who did you hear this from? Do you
3 remember?

4 A I don't remember, ma'am. It's -- again, it's
5 just so long ago. But yeah, it was just hearing it
6 throughout the -- word spreads fast in Bexar County
7 Sheriff's Office, like any workplace. So yeah, people
8 are always just -- it's rumors.

9 Q I understand.

10 A So it's hard to really believe anything.

11 Q I understand.

12 A Yes, ma'am.

13 Q So let's look at a document.

14 A Okay.

15 Q I want to look at Exhibit G, and this has
16 previously been admitted as exhibit, Plaintiff's
17 Exhibit 16.

18 My colleague is handing you a document,
19 Mr. Babb, that's marked Number 16.

20 A Okay.

21 Q Take a couple of minutes to review it.

22 A (Reviewing document.)

23 Q And there are a couple of pages here.

24 A Okay.

25 Q So if you need to take a couple of minutes to

1 look through it, we can go off the record.

2 A (Reviewing document.)

3 MS. HEBERT: Okay. Molly, we'll take a couple
4 minutes off the record, if you don't mind.

5 THE REPORTER: Okay. We're off the record.

6 (Recess from 9:48 a.m. to 9:49 a.m.)

7 THE REPORTER: We're back on the record.

8 Q (By Ms. Hebert) Did you have a chance to review
9 Exhibit 16?

10 A 16? Yes, ma'am.

11 Q Okay. I want to start on the second page of
12 the Exhibit 16.

13 A Okay.

14 Q What does IA mean?

15 A Internal Affairs, ma'am.

16 Q And what is Internal Affairs?

17 A Internal Affairs is, the way I look at it, if
18 I'm giving a definition, they're the group of people that
19 are there to hold officers accountable to make sure that
20 officers are doing the right thing within the job,
21 whether it be anything from ethical to criminal. They're
22 there to identify if there is criminal, and then of
23 course if there's criminal, then there's other groups
24 that come in called PIO, I believe is the name of it.

25 Q Do you know what PIO means?

1 A I don't, because I've never had to deal with
2 them. I planned on never dealing with anything like
3 this, so --

4 Q I understand. I do understand. So I'm going
5 to represent to you that Sergeant Ortega, formerly
6 Sergeant Rodriguez, wrote this report and testified about
7 writing this report.

8 A Okay.

9 Q Does this report, this page show that Sergeant
10 Ortega, formerly Sergeant Rodriguez, closed her
11 investigation on June 2, 2022?

12 A Yes, ma'am.

13 Q Okay. I want to read the Explanation section
14 to you. You see the Explanation section toward -- no,
15 right there on the same page.

16 A Oh, okay.

17 Q I'm just going to read that to you.

18 A Okay.

19 Q "I reviewed the dash cam that was provided by C
20 and I did not see any damage to C's vehicle. When I
21 reviewed Deputy Babb's body worn camera (BWC), I did not
22 see any policy violations. He told C why he had stopped
23 C immediately when he walked up to C's vehicle. When K9
24 Deputy Molina arrived, he even asked C for consent to run
25 his K9 and C agreed. No policy violations were viewed

1 through BWC. I advised C through email if you would like
2 to see the BWC, feel free to request it through our open
3 records email:" with an email address.

4 Did I read that correctly?

5 A Yes, ma'am.

6 Q Okay. Is it your understanding that Sergeant
7 Ortega concluded that you didn't violate any policies?

8 A Yes, ma'am.

9 Q Do you agree with the results of the initial
10 investigation by Sergeant Ortega?

11 A The dash cam, I did not turn on the dash cam,
12 so that is a policy violation.

13 Q Correct. I understand that. But do you see
14 anything about your dash camera in this explanation?

15 A "I reviewed the dash cam that was provided by
16 C." C is me, correct?

17 Q I understand C to mean complainant.

18 A Oh, okay.

19 Q So if that's true, is my understanding is
20 correct, "I reviewed the dash cam that was provided by
21 C," C meaning complainant.

22 A Okay, I misread it.

23 Q "And I did not see any damage to C,"
24 complainant, Mr. Schott's vehicle. Would you agree that
25 based on this explanation, Sergeant Ortega reviewed the

1 dash cam of Mr. Schott?

2 A Yes, ma'am.

3 Q Okay. Do you see anything in this explanation
4 that indicates to you that Sergeant Rodriguez, now
5 Sergeant Ortega, reviewed your dash cam?

6 A No. That's what I was mistaken, when I read
7 dash cam.

8 Q Sure.

9 A I'm not used to civilians using the terminology
10 "dash cam." That's why it confused me. But yes, ma'am.

11 Q So do you agree with the results of this
12 initial investigation by Sergeant Ortega, putting aside
13 your dash camera issue, of what she wrote here, that you
14 didn't violate any BCSO, Sheriff's Office policies,
15 during the traffic stop of Alek Schott?

16 A Yes, ma'am.

17 Q Okay. So would it be fair to say that in
18 carrying out the stop, the actual actions of the stop
19 that you did on Mr. Schott, you were following the
20 Sheriff's Office policies?

21 A Yes, ma'am.

22 Q Would it be fair to say that you had conducted
23 the traffic stop of Mr. Schott as you had been trained to
24 do as a criminal interdiction officer?

25 A Yes, ma'am.

1 Q And was that training, that criminal
2 interdiction training approved by the Sheriff's Office?

3 A Yes, ma'am.

4 Q And did Bexar County pay for your criminal
5 interdiction training?

6 A Not all of it, but one specific is, that they
7 did pay for and put me up in a hotel for, was called
8 Desert Snow.

9 Q Desert Snow.

10 A But the rest of it, because there's a lot more
11 of it, was paid for out of pocket by me.

12 Q Okay. I saw in some of your records that you
13 attended a Street Cop Training. Did Bexar County pay for
14 that training?

15 A I imagine they have paid for at least -- I've
16 been to a lot of those classes. I imagine they paid for
17 one or two of them. They've approved all of it. As far
18 as paying for it, I don't remember exactly what.

19 Q That's okay. We can look at some of that
20 later --

21 A Yes, ma'am.

22 Q -- and figure that out. So to your knowledge,
23 other than the investigation that Sergeant Ortega,
24 formerly Sergeant Rodriguez, completed on June 2, 2022,
25 was there any other investigation into the complaint of

1 Mr. Schott before Mr. Schott filed the lawsuit?

2 A No, ma'am.

3 Q And was there any other investigation into the
4 traffic stop of Mr. Schott before Mr. Schott filed the
5 lawsuit?

6 A No, ma'am, not to my knowledge.

7 Q And then was there any investigation into the
8 use of your dash cam or operation of your dash cam before
9 Mr. Schott filed the lawsuit?

10 A No, ma'am.

11 Q Okay. And if I refer to the 2022 investigation
12 as the first investigation, can we agree that I'm
13 referring to this investigation concluded by Sergeant
14 Rodriguez, formerly -- or Sergeant Rodriguez, now
15 Sergeant Ortega, in June 2022?

16 A Yes, ma'am.

17 Q Okay. Did the Sheriff's Office open a second
18 Internal Affairs investigation into the traffic stop of
19 Alek Schott?

20 A Yes, ma'am.

21 Q And was that second investigation opened a
22 year -- over a year after the Schott, the first
23 investigation had closed?

24 A Yes, ma'am.

25 Q Okay. And can we agree to call this the second

1 investigation, just for shorthand?

2 A Yes, ma'am.

3 Q Okay. So when we say "second investigation,"
4 I'm referring to the 2023 investigation that was opened
5 later.

6 A Yes, ma'am.

7 Q Okay. Do you know the specific date the
8 Sheriff's Office opened the second investigation?

9 A I don't know the exact date, ma'am. It should
10 be --

11 Q That's okay. We can look at a document.

12 A Okay.

13 Q Is that okay, we'll look at a document?

14 A Yes, ma'am.

15 Q Okay. Let me see which document we're looking
16 for.

17 MS. HEBERT: Can we pull up Exhibit G?

18 MR. ROWES: That's the one we're looking at
19 already.

20 MS. HEBERT: Oh, you're right.

21 MR. LEAKE: I think you guys --

22 MS. HEBERT: Oh, yeah, Exhibit G. Let's just
23 go to the first page. That's what we're looking for.

24 Sorry. Just flip it over to the first page.

25 MR. LEAKE: Is this G or F?

1 MR. ROWES: That's just internal to us.

2 MS. HEBERT: That's Exhibit 16.

3 Q (By Ms. Hebert) So we're going to look at
4 Exhibit 16, the first page.

5 A This one here?

6 Q Yep.

7 A Okay.

8 Q And can you look at the top of that page, and
9 you see the "to" line? The "to" line and "from" line?

10 A Yes.

11 Q And then you'll reach a date.

12 A Uh-huh.

13 Q Can you tell me what date that is?

14 A June 12, 2023.

15 Q And then there's a signature towards the bottom
16 of this page. What's the signature?

17 A Chief Serrato.

18 Q And what's the date of that signature?

19 A June 13, 2023.

20 Q Okay. So does that mean that Chief Serrato
21 approved an investigation on June 13th, 2023?

22 A Yes, ma'am, I believe so.

23 Q Okay. And so what is this page, to your
24 knowledge?

25 A This is -- and I'm, as I'm answering your

1 question --

2 Q Sure.

3 A -- I'm looking to see, because I'm not --

4 Q From the --

5 A Yeah, yeah. Let me take a look.

6 THE REPORTER: Could y'all be careful not to
7 talk at the same time?

8 MS. HEBERT: Sorry, Molly.

9 THE WITNESS: Sorry, ma'am.

10 A Yes, ma'am.

11 Q (By Ms. Hebert) So what is this document, to
12 your knowledge?

13 A It's a request for investigation.

14 Q Okay. And so on June 13th, 2023, Chief Deputy
15 approved a request for investigation; is that fair?

16 A Yes, ma'am.

17 Q And can you look at the "re" line of this
18 request? What is the request about?

19 A The -- you're talking about right here, ma'am?
20 It's request for investigation, Deputy Babb, Joel, and my
21 employee number.

22 Q Okay.

23 A So he's requesting for the investigation.

24 Q Sure. And do you believe that the Sheriff's
25 Office opened this second investigation because

1 Mr. Schott filed a lawsuit?

2 MR. LEAKE: Objection, form.

3 A I cannot answer what they did or why they did
4 it.

5 Q (By Ms. Hebert) Sure.

6 A And I don't really want to speculate, because I
7 just, I don't really think it's a good idea for me to
8 speculate.

9 Q Sure.

10 A But they opened it around that same time frame.

11 Q If I represented to you that Mr. Schott filed
12 his lawsuit on June 1 of 2023, could you agree that this
13 investigation was opened after Mr. Schott filed the
14 lawsuit?

15 A I can agree to that because the time is right.
16 I just don't want to put words or mindsets in --

17 Q Completely understand.

18 A Yes, ma'am.

19 Q When this second investigation was opened, was
20 there any other investigation going on about you?

21 A Yes, ma'am.

22 Q What other investigation was going on?

23 A There was another investigation happening with
24 me dealing with a old officer from the County who now
25 works somewhere else, who was dealing with personal stuff

1 going on between an ex-girlfriend who works with him, and
2 I was -- and he was putting allegations on me about
3 basically having an affair with his wife, who he had
4 already put divorce paperwork on and they had lawyers.

5 They were separated, but he had done a Facebook
6 post to public saying that -- nothing about the divorce,
7 but that basically I was having an affair for
8 two-and-a-half years. It was false, but that was the
9 allegation.

10 So at that point, that became an IA
11 investigation, and I was put on administrative leave for
12 that also.

13 Q Okay. Were you put on an administrative
14 leave -- when were you put on administrative leave?

15 A November.

16 Q Of what year?

17 A Actually 2023.

18 Q Okay.

19 A And that was the last time I was in Bexar
20 County Sheriff's Office working as an instructor. I then
21 went on leave and have been on leave until the point they
22 released me.

23 Q Okay. And why were you placed on leave
24 initially?

25 A According to --

1 MR. LEAKE: Objection, form.

2 A According to the County and what I read in the
3 paperwork -- no paperwork I saw was about this -- it was
4 about the allegation with Juan Macias.

5 Q (By Ms. Hebert) Okay. That other
6 investigation.

7 A Yes, ma'am.

8 Q Okay. So when were you placed on leave for the
9 investigation concerning allegations from another
10 officer?

11 MR. LEAKE: Objection, form.

12 A That was November.

13 Q (By Ms. Hebert) Okay. And did that leave end?

14 A That's a very good question, ma'am. I don't
15 know -- it did end, and it just -- but I stayed on leave.
16 But I had no -- I never was really even sure of when I
17 was actually on leave for this traffic stop, due to the
18 fact I was on for that.

19 Q Did the Sheriff's Office give you a notice of
20 leave that was about the Alek Schott traffic stop?

21 A No, ma'am, not at all.

22 Q Okay. And we previously talked about the fact
23 that you were dismissed by the Sheriff's Office in 20 --
24 in June of 2024.

25 A Yes, ma'am.

1 Q What were you dismissed for?

2 MR. LEAKE: Objection, form.

3 A I was dismissed for dishonesty.

4 Q (By Ms. Hebert) Okay. Did anyone in the
5 Sheriff's Office ever tell you that you were dismissed
6 based on how you conducted the traffic stop of
7 Mr. Schott?

8 A No, ma'am.

9 Q Would it be correct to say that the Sheriff's
10 Office dismissed you solely based off of issues
11 surrounding whether you turned off your dash camera?

12 A Yes, ma'am.

13 Q And you weren't dismissed because of the
14 reasons you stopped Mr. Schott?

15 A No, ma'am.

16 Q You weren't dismissed for the length of time
17 you held Mr. Schott?

18 A No, ma'am.

19 Q You weren't dismissed for how you questioned
20 Mr. Schott?

21 A No, ma'am.

22 Q And you weren't dismissed for searching
23 Mr. Schott's vehicle?

24 A No, ma'am.

25 Q Other than you, did the Sheriff's Office

1 investigate any other officer in connection with the
2 traffic stop of Mr. Schott?

3 MR. LEAKE: Objection, form.

4 A Yes. Molina is the other officer involved in
5 this case, and I believe put on IA. He was not put on
6 admin leave, but I believe he was under investigation
7 also.

8 Q (By Ms. Hebert) When you say Molina was put on
9 IA, what do you mean by that?

10 A Bad terminology, but I don't believe -- he
11 wasn't put on admin leave is what I'm saying. He never
12 was put on admin leave. However, IA was looking at him
13 due to the complaint by Mr. Schott.

14 Q Okay. So at some point the Internal Affairs
15 department investigated Deputy Molina with regard to the
16 traffic stop of Mr. Schott?

17 A As far as I know, ma'am.

18 Q Okay. Do you know if that investigation was
19 completed?

20 A I don't know anything about what was going on
21 with Molina as far as that.

22 Q Okay. So you don't know if a report was issued
23 for Deputy Molina?

24 A No. I really -- I'm not comfortable with
25 answering any questions for Molina, because I've been out

1 of the loop on this admin leave so long, I don't even
2 know what's going on in there.

3 Q No, I completely understand. And I'm just
4 asking what you know or do not know.

5 A Yes, ma'am.

6 Q Do you know if Internal Affairs or anyone else
7 investigated Deputy Gereb? Am I saying that name right?
8 Is it Deputy Gereb or Deputy Gereb?

9 A No, Gereb is right, ma'am.

10 Q Okay. Do you know if anybody investigated
11 Deputy Gereb for the traffic stop of Mr. Schott?

12 A I don't know. No, I don't want to just
13 speculate.

14 Q And if you don't know, you don't know.

15 A Yeah.

16 Q That's fine. Do you know if anybody
17 investigated Sergeant Gamboa in connection with the
18 traffic stop of Mr. Schott?

19 A I don't know.

20 Q Okay. To your knowledge, just to your
21 knowledge --

22 A Okay.

23 Q -- has anyone else other than you been
24 disciplined for any connection with the traffic stop of
25 Mr. Schott?

1 A No.

2 Q And by saying no, are you saying you don't have
3 any knowledge or you --

4 A I don't have any knowledge of that.

5 Q Okay. From an outsider's perspective --

6 A Uh-huh.

7 Q -- it seems like the Sheriff's Office has set
8 you up as the fall guy for the wrongdoing that Mr. Schott
9 alleged in his lawsuit.

10 MR. SAENZ: Objection, form.

11 MS. HEBERT: I haven't asked a question.

12 MR. SAENZ: Sorry.

13 Q (By Ms. Hebert) The first investigation we just
14 talked about you agreed you didn't believe found you
15 doing any wrongdoing. And the second investigation we
16 agreed was opened after Mr. Schott filed a lawsuit.

17 Why do you think the second investigation
18 reached a different conclusion than the first
19 investigation?

20 MR. LEAKE: Objection, form.

21 A Ma'am, I have no idea, because I'm not an IA
22 investigator, so I don't know how they go about
23 investigating. So that is a very good question that I
24 don't have the answer to.

25 Q (By Ms. Hebert) Sure. But I'm asking about, do

1 you have any -- like what your personal opinion is. Do
2 you have an opinion on why the second investigation
3 reached a different result from the first?

4 MR. LEAKE: Objection, form.

5 A I don't, ma'am.

6 Q (By Ms. Hebert) Okay. In carrying out the
7 traffic stop of Mr. Schott, were you performing traffic
8 stops in the same way you had performed dozens of
9 criminal interdiction traffic stops?

10 A Yes, ma'am.

11 Q Hundreds of criminal interdiction traffic
12 stops?

13 A A year and a half, possibly. Probably in the
14 hundreds, yes, ma'am.

15 Q So you were conducting the traffic stop of Alek
16 Schott possibly the same way you had done hundreds of
17 criminal interdiction traffic stops?

18 A So I don't want to say hundreds, and the reason
19 is, as you've read in the report, this was a -- I
20 received intel on this man, not all my stops are those
21 type of stops. The other stops are me actually
22 visualizing and observing traffic, looking for things to
23 stop them for, as an interdiction officer. In this case,
24 this was an intel based, so that's the difference. So I
25 don't want to say hundreds because I didn't do hundreds

1 of intel stops. But there was a, quite a bit of them.

2 Q Okay. I understand. Thank you.

3 So would it be fair to say then that you were
4 carrying out the traffic stop of Alek Schott the same --
5 in a -- how to say this.

6 Would you -- would it be fair to say that you
7 were carrying out the traffic stop of Alek Schott
8 according to Sheriff's Office criminal interdiction
9 policies?

10 A I don't know about Bexar County Sheriff's
11 Office criminal interdiction policy because I believe --
12 and I don't know for sure, because I'm not the guy that
13 writes that.

14 Q Sure.

15 A I believe they were still building policy. I
16 could be wrong.

17 Q Okay.

18 A What I was following was my training.

19 Q Sure.

20 A Everything I did is my training.

21 Q Sure. Was there anything about the traffic
22 stop of Alek Schott that was so unusual that it would
23 have been out of character for a criminal interdiction
24 traffic stop?

25 A No, ma'am.

1 Q Anything -- was there anything that you did
2 during the traffic stop of Mr. Schott that would have
3 surprised your supervisors?

4 A No, ma'am.

5 Q And if Bexar County argues that you went rogue,
6 what's your response?

7 MR. SAENZ: Objection, form.

8 A My response to that would be to look into my
9 201 file and look at the training I have and do some
10 research on that so that they can see that everything I
11 did lines up completely parallel with the training I've
12 received.

13 Q Help me understand that a little bit.

14 A Okay.

15 Q Because Bexar County did not provide that
16 training for you; is that fair?

17 MR. LEAKE: Objection, form.

18 A They approved that training for me.

19 Q (By Ms. Hebert) Okay. So when you say that you
20 were conducting criminal interdiction traffics in line
21 with your training, you were conducting criminal
22 interdiction traffic stops in line with the training that
23 Bexar County had approved.

24 A Yes, ma'am.

25 Q And so if Bexar County argues that you went

1 rogue, what would be your response?

2 MR. LEAKE: Objection, form.

3 MR. SAENZ: Objection, form.

4 A It would be exactly what I just said, ma'am.

5 Q (By Ms. Hebert) Help me understand.

6 A They approved my training. Look at my
7 training. Everything I was taught and everything I did
8 lines up with the training.

9 Q Okay. I want to take a few steps back and
10 understand how you ended up in law enforcement.

11 A Okay.

12 Q I have a couple of ex-military guys in the
13 family, and they've gone to the private sector.

14 A Okay.

15 Q And they can make a pretty good living in the
16 private sector.

17 A Yes, ma'am.

18 Q So why did you choose a career with the
19 Sheriff's Office?

20 A So from the beginning of time, not to go too
21 far back, but as a child, my plan was always to be an
22 infantryman in the military and serve my country. And
23 then it was to, after being infantry, get out, retire,
24 and become a police officer and serve my community. I
25 know that sounds like a commercial, but that is just how

1 my mindset was throughout my life.

2 Q I understand. And I'm grateful for that.

3 When you left the military in 2015, you became
4 a detention officer.

5 A Yes, ma'am.

6 Q We looked at that. And you -- at some point
7 you became part of the Patrol Unit.

8 A Yes, ma'am.

9 Q Okay. And then what were your responsibilities
10 with the Patrol Unit?

11 A So as a patrolman my job was to, of course,
12 keep the community safe, which is your commercial thing,
13 but that is the truth. How I did that was I was
14 responding to 911 calls in the county.

15 In between those calls, what I did to go above
16 and beyond, but still was within the realm of patrol
17 work, is I would do traffic stops. And when I say
18 traffic stops, during patrol before I received
19 interdiction training, finding traffic violations. While
20 I'm giving them a ticket or a warning, if I see or hear
21 anything or smell anything that tells me otherwise as far
22 as if they're maybe in the commission of a crime, then I
23 would take them to jail if I was able to find narcotics
24 or anything going on.

25 Pretty much that was what it -- in patrol, my

1 job was more of a reactive approach. That's one thing I
2 was not a fan of in patrol was I found myself responding
3 after the fact and writing reports, which became where I
4 got my passion for criminal interdiction to prevent
5 rather than react.

6 Q Okay. So let me understand, the two main
7 things you did as a patrol deputy were 911 calls and
8 traffic stops; is that fair, based on what you're saying?

9 A Yes, ma'am.

10 Q Okay. Can you help me understand then what a
11 general traffic stop looks like? How would you start a
12 general traffic stop when you were a patrol deputy?

13 A So if we're going to separate, which I'm going
14 to do right now, criminal --

15 Q Yes, sir.

16 A -- interdiction from a, as you call general
17 traffic stop. So if I am sitting on a roadway, let's say
18 looking for speeders or somebody who's going over the
19 speed limit, I'm actually going to sit my vehicle
20 differently than you saw with Alek Schott's traffic stop.

21 I'm going to have my vehicle sitting at an
22 angle. I'm going to have my radars facing traffic.
23 Because my goal at this point is to identify speeding,
24 people that are going over the speed limit, in order to
25 prevent traffic accidents, road rage, and any other thing

1 that can appear from somebody driving recklessly.

2 That would be my basic traffic stop is the
3 placement of my vehicle. So that is the difference.
4 It's a little more: I'm out here to stop speeding,
5 traffic violations, and give tickets or warnings to
6 prevent accidents and road rage and other things that
7 come out of reckless driving.

8 Q Okay. So let me make sure that I understand
9 all that. You would call a non-criminal interdiction
10 stop a basic traffic stop?

11 A That was -- I think that's what you called it,
12 ma'am. I don't --

13 Q I called it a general traffic stop. I don't
14 know the right --

15 A I don't know the type --

16 Q Oh, sorry.

17 MR. LEAKE: You guys need to wait and let each
18 other finish.

19 THE WITNESS: I'm sorry.

20 A So I don't really have a name for it. Basic
21 just sounds -- I don't like the way it sounds, so I don't
22 want to use that terminology. But it's a traffic stop
23 that is used to identify traffic, traffic violations,
24 speeders, things like that. So yes.

25 Q (By Ms. Hebert) Okay. How about just the term

1 "non-criminal interdiction traffic stop"?

2 A We'll use that.

3 Q Can we agree non-criminal interdiction traffic
4 stop, traffic stop?

5 A Yes, I can agree with that, ma'am.

6 Q Okay. So as I understood what you just said,
7 for a non-criminal interdiction traffic stop you would
8 situate your vehicle at an angle. You would be looking
9 for speeding, for another traffic violation. Is that
10 fair?

11 A Yes, ma'am.

12 Q Would there be anything else that you did when
13 you are looking for a traffic violation in a non-criminal
14 interdiction traffic stop?

15 A I would be looking at nothing but the vehicle,
16 and I would be looking at nothing but the violation
17 itself.

18 Q Okay. And you talked a little bit about a
19 reactive approach. What is a reactive approach?

20 A A reactive is to prevent crime. So proactive
21 is really what I should have called it. So a proactive
22 approach.

23 Q Okay. You said reactive previously. So when
24 you're doing a reactive approach, what does that mean?

25 A That is a mistake. Proactive is the proper

1 terminology.

2 Q Okay. So when were you doing proactive?

3 A Proactive is once I received training and
4 learned criminal interdiction tactics and techniques,
5 which is --

6 Q Okay.

7 A Sorry.

8 Q I just want to take a step back. So I think
9 what I want to talk about is the non-criminal
10 interdiction traffic stops for a second.

11 A Okay.

12 Q You said reactive approach to non-criminal
13 interdiction stops.

14 A Okay.

15 Q So when you were doing non-criminal
16 interdiction stops, you said you do a reactive approach.
17 What does that mean?

18 A So when I said reactive, what I meant was
19 basically patrol. Patrol itself. Not the traffic stops,
20 but the patrol itself is a reactive type of police work
21 being it's after the fact a 911 call has been made. And
22 I guess even in the traffic stops, if you were to call it
23 reactive, it's because it's after the fact the violation
24 happened. So it's the same thing.

25 So patrol is just reactive police work. I

1 don't think it prevents crime. I think it reacts to the
2 crime that has already happened.

3 Q Okay. I understand. So when you say reactive
4 approach, you're saying you're seeing a crime or you're
5 getting called about a crime and you're reacting to that
6 crime.

7 A Yes, ma'am.

8 Q When you were a patrol deputy, how many traffic
9 stops would you do in a given day?

10 A I don't have an exact number, but it would
11 depend on the calls that are incoming. I worked second
12 shift, so there were days where I didn't get many because
13 it was one after another as far as calls for service.

14 But if it is a slow day, I would not go sit in
15 a parking lot and eat food and hide. I would sit on the
16 side of the highways or a roadway that I know there's a
17 lot of the accidents on or bad driving, and I would try
18 to identify people that are driving recklessly, speeding,
19 doing anything that can cause an accident.

20 So in a way that was my way of being a good
21 patrol deputy. And in my eyes a bad patrol deputy was
22 the one that would not do what I'm doing and would go
23 park in a parking lot and eat food, hidden in a corner
24 waiting for the next call.

25 Q I understand. So can you just give me an

1 estimate about how many traffic stops you did generally
2 per day?

3 A On a non-busy day, probably over ten.

4 Q Okay.

5 A And that's not going to be exact. This is all
6 vague. But at least ten.

7 Q Sure, give or take ten.

8 A I had a goal of eight. I had a goal of eight.
9 And the reason I say that is because when I was trained
10 in the beginning of -- for patrol, the trainer that I had
11 always -- he was a pretty proactive officer, meaning he
12 tried to prevent crime and did a lot of that -- he always
13 said a good number is eight, to try to prevent crime
14 within your eight traffic stops.

15 Q Okay. And did that number change when you
16 became a criminal interdiction deputy? Did you have a
17 goal number when you became a criminal interdiction
18 deputy?

19 A No, ma'am. There was no goal number. The job
20 was traffic stops. So from start to finish of the shift,
21 I was doing criminal interdiction traffic stops, ma'am.

22 Q Okay. At some point you became part of the
23 Special Enforcement Unit. We looked at that.

24 A Uh-huh.

25 Q Was that a promotion?

1 A I believe so. I looked at it as a promotion.
2 Some people would disagree. But yeah, absolutely leaving
3 patrol and moving into a Special Operations Unit would be
4 considered a promotion. I believe I earned it through
5 all that training I received I was getting while I was on
6 patrol.

7 Q Okay.

8 A So I was recognized for that.

9 Q And how did you get that position?

10 A By doing -- doing all the training I was doing
11 out of my own pocket. When I heard they were opening a
12 team, I began to reach out to Sergeant Gamboa, and I
13 think he had heard about me from other captains. Because
14 on patrol, in between calls, after I started receiving
15 training, I began doing criminal interdiction-style
16 traffic stops on Highway 37, because I worked out there,
17 and I was actually making a good number -- not large,
18 huge kilo arrests, but I was making a lot of
19 narcotic-style arrests off of the highway.

20 Q So even before you became part of the Special
21 Enforcement Unit, if I understand what you're saying
22 correctly --

23 A Uh-huh.

24 Q -- you were doing some criminal interdiction
25 stops?

1 A Yes, ma'am. That's how I was recognized to go
2 to the team. They recognized what I was doing, and my
3 record of arrests, and then I was moved over.

4 Q Were other patrol deputies also doing criminal
5 interdiction activities that weren't part of the Criminal
6 Interdiction Unit at that time?

7 MR. LEAKE: Objection, form.

8 A Deputy Gereb for sure. As far as anybody else,
9 if they were going to those classes maybe, but I'm not
10 aware of any.

11 Q (By Ms. Hebert) Sure. At the time you became
12 part of the Special Enforcement Unit, who were the
13 leaders of that unit?

14 A It was Sergeant Gamboa, he was overall in
15 charge as a sergeant of the Interdiction Unit and many
16 other things. I think he was in charge of, at that time,
17 the training academy and like three other things. And
18 then the lieutenant that was in charge was Lieutenant
19 Ortega at the time. And he was in charge -- Lieutenant
20 Ortega was in charge of all of Organized Crime or Special
21 Enforcement Unit. And then within the Organized Crime,
22 it breaks down to Criminal Interdiction, Gang Unit, there
23 was like four different groups, and they all have
24 different sergeants.

25 Q Okay.

1 A And I think at one point Sergeant Gamboa was in
2 charge of like two or three of them.

3 Q Okay. So let me just make sure I understand
4 that.

5 A Yes, ma'am.

6 Q The Special Enforcement Unit, is that the same
7 as the Organized Crime Unit, or are they different?

8 A As far as I understand, it may have changed in
9 the year I've been out of work.

10 Q Sure.

11 A But yeah, Organized Crime and Special
12 Enforcement Unit for me was the same thing, as far as --
13 if I was looking at it correctly. I kind of stuck to my
14 guns on what I was doing. But yeah, I think they're the
15 same.

16 Q And Lieutenant Ortega?

17 A Lieutenant Ortega, yes, ma'am.

18 Q Lieutenant Ortega was in charge of the Special
19 Enforcement Unit or Organized Crime Unit, whatever it was
20 called?

21 A He was the lieutenant in charge, yes, ma'am.

22 Q Okay. And when you say Ortega, you're not
23 referring to Sergeant Marta Ortega?

24 A No, ma'am. I'm referring to the male
25 Lieutenant Ortega. I think his first name was Ray.

1 Q Ray. What's the relationship -- is there a
2 relationship between Marta Ortega and Ray Ortega?

3 A Yeah, I believe they're together.

4 Q What do you mean by "together"?

5 A I believe they're -- I don't remember, because
6 again, things changed in a year, but they have kids
7 together, so I believe they're married now.

8 Q Okay.

9 A I don't know for sure.

10 Q So at some point Ray Ortega and Sergeant now
11 Marta Ortega were romantically involved?

12 A They have children together, so yes.

13 Q Right. I wouldn't ask you to speculate about
14 that.

15 A I know, ma'am. I'm just being very careful
16 with my answers.

17 Q I understand. I understand. And I want to go
18 back to the organization piece. So Lieutenant Ortega was
19 over the Organized Crime Unit and the Special Enforcement
20 Unit.

21 A Yes, ma'am.

22 Q Generally, both of them. And then Sergeant
23 Gamboa was in charge of the Criminal Interdiction Unit
24 and other units you don't know exactly which ones?

25 A Yes, ma'am.

1 Q Okay. I got that correct?

2 A Yes, ma'am.

3 Q Anybody else in that chain between Lieutenant
4 Ortega and Sergeant Gamboa, or did Gamboa report directly
5 to Lieutenant Ortega?

6 A He reported directly to Lieutenant Ortega.
7 That was his, his next -- when you're looking at the
8 chain of command, Lieutenant Ortega was the next one
9 above him. So yeah, everything should have went through
10 Lieutenant Ortega.

11 Q Thank you for understanding my question. I
12 didn't ask that well. So I appreciate that -- you
13 clarifying that.

14 A No, no problem, ma'am.

15 Q And who was the supervisor of Lieutenant
16 Ortega?

17 A I'm not sure off the top of my head. It should
18 be a captain. Just off the top -- because I don't deal
19 with the captain, but there's going to be a captain in
20 charge of Special Operations. Then above that there will
21 be a chief. And chief -- I've been out for a year, and I
22 forgot names. But yeah, that's the layout of chain of
23 command.

24 Q And then does the chief report to the Sheriff
25 then?

1 A Yes, ma'am.

2 Q Okay. So it goes just -- and bear with me, I
3 don't always understand chains of command.

4 A Okay.

5 Q So I appreciate you explaining it to me.

6 A Yes, ma'am.

7 Q The Sheriff's at the top of the pyramid.

8 A Yes, ma'am.

9 Q Sheriff gives directions to the chief. The
10 chief gives directions to the captain?

11 A Captain.

12 Q And the captain gives directions to the
13 lieutenant?

14 A Lieutenant.

15 Q Who then gives directions to the sergeant, who
16 then talks to the folks below.

17 A Yes, ma'am.

18 Q Did I understand that correctly?

19 A Yes. It's very paramilitary. It's pretty much
20 lined up to a military style chain of command.

21 Q Okay. Thank you. And I'm going to come back
22 to the Interdiction Unit in a moment, but we talked about
23 how you left the Criminal Interdiction Unit previously.

24 A Yes, ma'am.

25 Q And you became an instructor.

1 A Uh-huh.

2 Q What training did you provide at the academy?

3 A I provided communications, community policing,
4 de-escalation, use of force, traffic stops, defensive
5 tactics, mental health, and many more. Those are the
6 main ones. Again, it's a lot. But those are the main
7 ones I'd like to put on record, I guess. We're going to
8 be here a while if I really cover everything I teach.

9 Q Sure. So you gave me quite a long list. Would
10 it be fair to say one of the topics you provided training
11 on was traffic stops?

12 A Yes, ma'am.

13 Q And before Alek Schott sued the County, had
14 anyone in the Sheriff's Office suggested that you needed
15 to change how you conducted traffic stops?

16 A No, ma'am. And to be clear, on the teaching of
17 a traffic stop, when I was in the patrol academy teaching
18 traffic stops, I in no way was teaching interdiction
19 traffic stops. I was not teaching a patrolman to do a
20 front seat type interview. I was teaching them the style
21 of traffic stop we talked about being the patrol traffic
22 stop, the basic traffic stop as we'll call it for that.

23 Q Okay, thank you.

24 A Yes, ma'am.

25 Q To your knowledge, does the Sheriff's Office

1 have any practice of auditing officer dash camera
2 footage?

3 A Auditing? Can you repeat the question?

4 Q Sure. To your knowledge, does the Sheriff's
5 Office have any system for generically reviewing dash
6 camera footage?

7 A Yes, ma'am. When I was on patrol, I know that
8 the sergeants throughout their shift were supposed to --
9 I think there's an actual number attached to it. They
10 have to review a certain number of random body cams
11 from -- to just kind of oversee. And I think it's an
12 agreement with Axon that requires them to do that. And
13 again, I'm not a sergeant, but I just -- I only know that
14 because I would see them -- when I would go get my keys
15 for the vehicle I would see sergeants reviewing body worn
16 cameras.

17 Q Do you know if Sergeant Gamboa did that with
18 your body worn cameras when you were a criminal
19 interdiction officer?

20 A Yes, he absolutely did. I know for a fact he
21 would watch regularly our traffic stops.

22 Q Okay. I think this is a good point for a
23 break. Are you okay with taking a break?

24 A I'm fine, ma'am.

25 MS. HEBERT: Okay, let's take a break, Molly.

1 THE REPORTER: We're off the record.

2 (Recess from 10:27 a.m. to 10:38 a.m.)

3 THE REPORTER: We are back on the record.

4 MS. HEBERT: Okay, Blair, you had something you
5 wanted to correct?

6 MR. LEAKE: Yeah, my client -- you know, to the
7 question of other incidences of IA discipline, I think
8 there was one instance he forgot to mention he wanted to
9 bring it up now.

10 Q (By Ms. Hebert) Go ahead.

11 A So I forgot -- so with the Juan Macias case
12 that I was dealing with at the same time as this one, so
13 I was cleared of everything as far as the -- having an
14 affair and whatever else this guy tried to put in on me
15 because he was upset. However, I did get a three-day
16 discipline, and I -- the reason I forgot is because I've
17 been out of work, and by getting the discipline, it kept
18 going, so I didn't really feel nothing. But it was
19 because an ex-girlfriend had turned in a video from a
20 year prior that, I guess, she had in her phone of me
21 stumbling, off duty, out of a car, looking intoxicated,
22 where my shirt came up and you could see my badge and gun
23 on my belt under my shirt.

24 So I did get three days of discipline for that.
25 I had said no to you to that incident, because as far as

1 the affair and everything else was -- there was no
2 discipline. That was cleared. But that, I just forgot
3 about, because I've been on leave for six months, and
4 great, I have three days, but I'm still not at work, so I
5 didn't feel nothing.

6 Q I understand. I understand.

7 A I apologize for that.

8 Q No, that's fine. I appreciate you clarifying.

9 A Yes, ma'am.

10 Q So I want to go back to what we were talking
11 about before.

12 A Okay.

13 Q Before we broke, you talked about the fact that
14 Sergeant Gamboa regularly, regularly reviewed your body
15 camera footage when you were a criminal interdiction
16 officer. Is that fair?

17 A Yes, ma'am.

18 Q Do you know how often he would do that?

19 A I don't. I just know he said -- and again, I'm
20 saying that because he would tell us, "I'm watching your
21 body camera footage." So have I watched him watch our
22 body cam footage? Only on occasions where he would bring
23 us in after an incident to do what's called an
24 after-action review, being -- let's say there's a vehicle
25 pursuit of some kind that we end up involved in. We'll

1 sit down, look at the video and talk about what was good,
2 what was bad, and what could we have done better. And
3 that's what the after-action reviews are after big
4 operational type things we do.

5 Q Sure.

6 A So yeah.

7 Q Did you ever have an after-action review for a
8 general criminal interdiction traffic stop?

9 A I believe once or twice he brought me in to
10 just kind of -- in the beginning -- yeah, so in the
11 beginning of my time on Criminal Interdiction, I actually
12 requested that he looks at my cameras. I'm sure he would
13 have anyway, but me being me, I like to get feedback. So
14 I asked him to please watch my traffic stops and I want
15 to hear his opinion on my interdiction stop and --
16 because I know he was interdiction in his, in the past.

17 So for me, he's a mentor. So he was the one
18 that I wanted him to look at my traffic stop and give me
19 feedback on what I could do better or what he likes, what
20 he doesn't like. So he has seen my style of traffic
21 stops.

22 Q And did he give you feedback?

23 A He was pretty happy with what he saw. I don't
24 remember him saying there was anything wrong. He would
25 just give me little pieces of advice here and there.

1 What, I don't really remember. But it was just -- I'm
2 one of those guys, I just need that feedback. If you're
3 going to be in charge of me, I expect you to look at my
4 stuff and tell me what you think. Not so much positive
5 reinforcement, but I want to know what can I do to be
6 better.

7 Q Okay. Would it be fair then to say that
8 Sergeant Gamboa gave you little tweaks, but generally
9 approved of what you were doing?

10 A Yes, ma'am.

11 Q I want to talk a little bit about criminal
12 interdiction tactics.

13 A Okay.

14 Q Earlier today you talked about front seat
15 tactics.

16 A Yes, ma'am.

17 Q What does that mean?

18 A Not front seat tactics. I guess you can call
19 it -- in the training realm of it they call it a front
20 seat interview, but I have to be careful with that
21 wording. That is the name due to my training, but it is
22 not an interview.

23 It's just as I'm conducting a warning. So if
24 it's not going to be a ticket, it's going to be a
25 warning, meaning I'm typing on paper that it's going to

1 be a warning, because due to the Sandra Bland Act, we're
2 not allowed to do verbal warnings anymore, like, "Hey,
3 don't do it again, have a good day." We can't do that
4 anymore. So using the Brazos system, which is the system
5 in our vehicle that has a little printer, we type the
6 warning.

7 So as I'm typing the warning, I have them sit
8 in the front seat. And while they're in that front seat,
9 it's not a locked door. It's the front seat. He goes
10 into the vehicle himself. If he decides not to sit in
11 the front seat, I would then ask him to stand outside the
12 door with the window down. And alls that so I can -- as
13 I'm doing the warning, get his information, talk to him a
14 little bit. If he doesn't say anything to me, that's
15 fine too, because he's got rights. And again, this
16 isn't, Where were you on the night of the night? It was,
17 Oh, okay, you have kids, that's great. You know, talking
18 to him as I'm typing.

19 Q Sure.

20 A But that's front seat due to the fact he's in
21 the front seat.

22 Q Did anyone ever refuse to sit in the front
23 seat?

24 A I've only had one person say, "I don't really
25 feel comfortable in the front seat." I said, "Okay,

1 that's fine if you want to just stand next to my window
2 with the window down."

3 I would also explain to people the reason I did
4 that. Not only to talk to them, but on a highway,
5 because that's where I always was, if you're sitting in
6 your car on the side of the road, as people are driving,
7 they look and they veer. So I explain to them that if a
8 vehicle veers, it's going to hit them where they're
9 sitting and they're going to die. So really for safety
10 purposes, I would like to put them on that other side of
11 the vehicle too, because it protects them.

12 Q Okay. Can you help me understand the
13 difference between a hot stop and a cold stop?

14 A I've never heard the term "hot stop." But cold
15 stop is a cold stop being, today I get up at 8:00 a.m.
16 and I'm going to run criminal interdiction on IH-35. So
17 now I'm going in there with nothing other than my eyes,
18 my vehicle and the equipment I've been issued. I sit on
19 the side of the road.

20 So if I was to -- I know we can't write this,
21 but let's say this is a roadway. I'm going to sit like
22 so, like you saw in the video. What I mean by sitting
23 like this is because what I'm creating is what's, for me,
24 a billboard of Bexar County Sheriff's Office with my
25 marked vehicle.

1 What I'm doing is I want everybody to see me
2 from far away to know that I'm on the roadway.

3 Q Hold on just one second.

4 A Yes, ma'am.

5 MS. HEBERT: Do you have a piece of blank paper
6 so that --

7 MR. ROWES: Yes, ma'am.

8 MS. HEBERT: Because I'm having a hard time
9 visualizing what you're saying.

10 THE WITNESS: Yes, that would be perfect. You
11 want me to draw it?

12 MS. HEBERT: Yeah. Just take one of these.

13 MR. LEAKE: I think he's just saying
14 perpendicular to the road.

15 MS. HEBERT: I just want to make sure I
16 understand. I'm going to -- can you give me an exhibit
17 sticker?

18 MR. ROWES: Sure.

19 Q (By Ms. Hebert) Just so I understand what
20 you're saying. I want to mark this as Exhibit 43.

21 A Okay.

22 Q And I'll hand you a pen. It's probably going
23 to bleed a lot. Can you just explain to me what you're
24 talking about? And bear with me, I am not a good spatial
25 reasoning individual.

1 A That's fine. Again, with the training of every
2 interdiction class you go to, they'll tell you here's the
3 roadway --

4 Q And you're marking a green line just -- two
5 parallel lines --

6 A Marking a green line.

7 Q -- straight across.

8 A This is a roadway. So to make it easier to
9 understand, here's your lines.

10 Q And those are the dotted lines in between?

11 A Yeah. And again, I'm not an artist. So just
12 to give you the idea.

13 The only reason our vehicles sit this way in
14 criminal interdiction, because of the training I
15 received -- horrible square, rectangle -- is to make a
16 billboard. Meaning I am not hiding. I don't want you to
17 not see me. I'm not trying to trick you. I actually
18 want people to see me from a distance. I want people to
19 see my presence, and I want them to react to my presence.

20 Because the behavioral driving that I talked
21 about is, to my presence, how somebody's going to react.
22 Being hit the brakes, being I'm in a lane traveling and I
23 put myself from a lane in between two cars, which is not
24 a normal act of a driver of the general motoring public.

25 So that is it. So the cold stop would be I

1 observe a behavioral cue, being something like we talked
2 about, or let's say failure to maintain a lane. You're
3 looking at me, whatever the reason is, and you veer over
4 that line, for many different reasons could be happening.
5 You're falling asleep, you're a sleepy driver, which I
6 need to talk to you anyway about getting some sleep.
7 Probably still going to give you a warning, but I'm going
8 to -- if I don't see anything other than a sleepy driver,
9 I'm going to go back, type the warning, give it to him,
10 send him on his way.

11 However, when I go up there after I see that
12 cue, as I'm talking to you, if I start seeing other
13 behavioral cues that lead me to believe there's possibly
14 something else going on criminal, we'll then move forward
15 into everything you see in Alek Schott's traffic stop and
16 many other stops that I've done that have led to arrests.

17 Does that make sense? That's a very long
18 answer, but I'm just trying to explain what we do and
19 what I'm doing --

20 Q Sure.

21 A -- and the reason for it.

22 Q Can you do me a favor and then just label that
23 that's the patrol car?

24 A Yes. And again, this is -- what I also want
25 to -- since I'm drawing here, this is not drawn to scale,

1 so -- I need to put that in here.

2 Q I understand.

3 A This isn't the distance from the roadway.

4 Q Okay.

5 A Because that's an embarrassment.

6 Q I understand.

7 MR. LEAKE: That's actually a cyber truck.

8 It's very large.

9 A Yeah, looks like a 113, one of those square
10 tanks.

11 Q (By Ms. Hebert) So if you were thinking -- and
12 that just prompted a question for me.

13 A Okay.

14 Q When you're thinking about to scale, like how
15 far would you park from the roadway? Do you have an
16 estimate?

17 A For me it's just a safety thing. I don't want
18 to be on top, because again, people will veer. Sometimes
19 our people are texting and driving. So this is one of
20 the most dangerous things you're going to do in law
21 enforcement. I'd rather -- like this is more dangerous
22 than kicking in the door of a house, I believe, because
23 of the way that people drive. I'm walking around on the
24 side of the road. So I always try to keep a good
25 distance. So if a car does veer, I'm going to have time

1 to move away.

2 Q I understand. So I guess this prompts for me a
3 bigger question.

4 A Okay.

5 Q How do you know when someone has a reaction to
6 you when they're driving by you and they see your patrol
7 car, let's say they veer a little bit. How do you know
8 that that reaction means anything?

9 A I don't. I don't know, until I pull over the
10 vehicle and make contact with the driver. And the only
11 thing that allows me to pull over that vehicle is, of
12 course, probable cause. And during that time, the
13 failure to maintain a lane was the probable cause. But
14 again, I'm not out here to give tickets in criminal
15 interdiction. So most people are getting written
16 warnings. And once I identify there's nothing, you're on
17 your way.

18 Q Okay. So let me just make sure I understand
19 that.

20 A Okay.

21 Q So you're using the billboard, you know, the
22 car being the billboard, to see if people are going to
23 react.

24 A Uh-huh.

25 Q Is that correct?

1 A Yeah, to induce driving behavior.

2 Q Okay. And if they do react, and that reaction
3 causes something like them to drive outside of the lane,
4 you would pull them over?

5 A If it's a violation. I want to make it clear.
6 So I use -- that was probably a bad example, because the
7 driving outside the lane is a -- it's a good one because
8 it's giving me PC plus a behavior. Now, some of the
9 other behaviors I talked about, let's say vehicle's
10 traveling, there's two other vehicles, he puts himself in
11 between two other vehicles out of a lane. That's a
12 behavior, but what it's not is a violation.

13 So at that point, if I see enough -- like if
14 I'm looking and then they drive by, let's say, and let's
15 say I see the driver and he's locked up and -- or doing
16 something different, at that point I will pull out. I'm
17 not going to creepy follow him, but from a distance, yes,
18 he's gained my interest.

19 I'm going to now kind of track and look for PC.
20 And being -- PC being probable cause, a traffic
21 violation, whether it be an equipment violation, whether
22 it be a moving traffic violation. Equipment being
23 lights, wrong color, broken lamp, cracked windshield,
24 something hanging in the rearview that's blocking
25 whatever it is. If I find that, then I'll make the stop

1 and do what we talked about.

2 If I don't find it and let's say I hit county
3 line, I live another day, and go and find the next
4 vehicle. If I really, really believe that there's
5 possibly something going on with this vehicle, I will
6 actually call or let somebody know that's another
7 interdiction officer in another agency in that county,
8 Hey, you might want to look at this guy, because this is
9 what he did when I saw him. And then they'll stop him if
10 they see PC.

11 But no vehicle is getting stopped unless
12 there's PC. No vehicle is that important to me. I don't
13 lose sleep at night if I don't get one at the end of the
14 day type of thing.

15 Q Sure. And just so the record -- so that it is
16 clear, when you say "locked up," you did like a gesture,
17 locked -- so if you see someone driving and they get
18 really stiff?

19 A Yes, ma'am. So everything I do is off of
20 comparison. So general motoring public, what is the
21 norm? What I mean norm is if I watch -- so what I did
22 when I first got into criminal interdiction -- I know
23 these are winded answers, but when I first got into
24 criminal interdiction I knew in order to do it properly I
25 need to understand what normal looks like as far as

1 traffic.

2 So in the beginning of criminal interdiction,
3 what I did is I didn't make traffic stops. In between
4 calls I would sit on the highway and I would just watch
5 traffic. I would watch how people look at me when they
6 drive by me, I would watch how people drive from a
7 distance, how people react to my presence, and I don't
8 make stops. I was studying the behaviors of the drivers,
9 the general motoring public.

10 What I will tell you is that the norm for
11 people when they're passing police, they will actually
12 look right at you. That's actually the norm. A lot of
13 times people that were involved in some sort of crime,
14 when they would pass me, if I saw a behavior, I'd look --
15 what I would see -- what I meant by "locked up" is hands
16 gripping the steering wheel, eyes locked forward, and
17 literally stiff in their seat, arms extended, like elbows
18 locked, very noticeable.

19 But when somebody is that in fear of being
20 stopped by the police, you'll see this (indicating). Not
21 always. But if I do see that, you've now got my
22 attention, and I'm going to want to maybe see if I see
23 anything or hear anything in my analysis.

24 Q Okay. And just so that it's clear for the
25 record, because you're showing me physically.

1 A Yes.

2 Q By "locked up" you mean like arms straight and
3 tense and posture kind of erect and tense?

4 A If I was to put words on it, hands clenching
5 steering wheel, elbows locked, arms locked out, neck
6 stiff, eyes straight, locked, in a tight position, as
7 he's passing.

8 Q Okay. And how do you know that body language,
9 for lack of a better descriptor, isn't just in response
10 to fear of the police, innocent fear of the police?

11 A So I don't at that point. However, with my
12 training, and with my experience in behavioral analysis,
13 upon approaching that vehicle and talking the way I do as
14 you heard in the video, "My name is Joel," not Deputy
15 Babb, and all the different relaxing tone, a lot of times
16 within seconds I can see, okay, there's nothing here,
17 you're going to get a warning, here you go, have a nice
18 day.

19 But it's all -- it's just what leads me into
20 the stop of getting that analysis of, is there something
21 going on, to build a reasonable suspicion.

22 Q Okay. What do you mean by "to build a
23 reasonable suspicion"? I don't understand that part.

24 A Okay. So with reasonable suspicion, I would
25 never say -- like for example, let's say, okay, the guy

1 changed lanes, and then as I called it, locked up. In no
2 way shape or form am I taking that right there and
3 stopping this man and saying -- or woman, and saying,
4 "Step out of the vehicle." Because that's not enough.

5 When I say "building reasonable suspicion,"
6 reasonable suspicion is a set of facts or circumstances
7 that I group together that say, okay, this by itself
8 would not be a reason to have this man step out of the
9 vehicle. However, these three or four things that I
10 observed is a grouping that gives me reasonable suspicion
11 to believe there may be something going on here.

12 It's not probable cause, but it is reasonable
13 suspicion, which allows me to move forward with the
14 things you see in the video.

15 Q Okay. And so does that mean every time you ask
16 someone to step out of the vehicle you have reasonable
17 suspicion?

18 MR. LEAKE: Objection, form.

19 A So what it means is, when I have somebody step
20 out of the vehicle, I will do it -- if it's a consensual
21 step out, there are times with where the traffic is so
22 whipping by that I will ask them to step out due to
23 safety, and then just bring them to the back of the car
24 or over here on the other side of my car as a safety
25 thing.

1 However, a lot of times when I have somebody
2 step out of a vehicle, it's a safety thing, because I
3 believe they're armed and dangerous. I have the belief
4 that they possibly are. Which also is what -- if it gets
5 into it later, which also is what leads me to doing a
6 Terry frisk or pat down on an individual.

7 Usually, like I did with Alek Schott, whether I
8 have to or not, I still get consent to pat them down.

9 Q (By Ms. Hebert) Okay. I guess I don't
10 understand then. So do you ask every driver to step out
11 of the vehicle?

12 A Not every driver. The majority of them I do,
13 for safety purpose.

14 Q Okay.

15 A And I want to clarify the words we're using
16 here is ask. I don't tell people to step out. It's in
17 the question format. I'm asking them, Do me a favor and
18 step out of the vehicle.

19 Q Okay. I want to talk a little bit about
20 license plate readers.

21 A Yes, ma'am.

22 Q And I understand that the criminal interdiction
23 patrol officers had four license plate readers --

24 A Yes, ma'am.

25 Q -- on the patrol vehicle. Is that

1 understanding correct?

2 A Yes.

3 Q When you looked at the record for a license
4 plate reader in the license plate reader system, what
5 would you see?

6 A Okay. So when I look at an LPR, one thing I
7 want to start with --

8 Q When you say LPR --

9 A License plate reader. So for the record --

10 Q Okay. So if we say LPR --

11 MR. LEAKE: She's going to throw a stapler at
12 you guys.

13 THE WITNESS: Sorry.

14 A For the record, LPR is license plate reader.
15 Okay. So when I look at an LPR, what I see is little
16 snippets and pictures. License plate reader is not only
17 on the front of police cars. Not many police cars even
18 have license plate readers other than special operations
19 vehicles. But they're also on garbage trucks, as far as
20 I've heard. There's cars that actually drive around with
21 LPRs for Google images. There's people that work for
22 Google that actually --

23 Q (By Ms. Hebert) What do you see when you look
24 at the record?

25 A A snippet and a picture. So wherever these

1 LPRs are, the vehicle drives by, picture snaps snapshots
2 of the front and rear of the vehicle, which is why we
3 have front and rear license plates. And in the picture
4 you'll see a picture of the car, the license plate, and
5 where their picture was taken.

6 Q Okay. And how much history, for a vehicle, do
7 you see when you look at the license plate reader record?

8 A I don't know the exact answer of how far back
9 it goes. It goes pretty far back.

10 Q Okay. I mean, does it go back days?

11 A Oh, it goes back farther than that.

12 Q Does it go back months?

13 A I never really went too, too far back, but it
14 does go back possibly months. I'm not 100 percent
15 familiar with LPRs this way.

16 Q Sure.

17 A I know the basics of I'm going to check the
18 pictures and see where he's been. I'm kind of like
19 the -- I'm not in -- I'm in no way a professional with
20 LPRs.

21 Q And did the LPR system give you alerts as a
22 criminal interdiction deputy?

23 A It could, but it didn't. So he didn't have our
24 LPR set up to do that.

25 Q And by "he," who do you mean?

1 A "He" being Sergeant Gamboa, because I believe
2 he's the point of contact with -- the company was
3 Vigilant license plate readers that we use. There's
4 numerous companies for license plate readers.

5 You can have license plate readers set up to
6 actually alert you when they're stolen vehicles. There's
7 actually -- there's a whole thing you can do. And I
8 believe in order to do that you have to go through State
9 Troopers. It's above my pay grade.

10 Alls ours did, I was able to look it up and see
11 where he has been. And what ours was doing for other
12 officers was if I'm sitting on I-35, like I was in the
13 video, every vehicle that passed me got snapshotted. So
14 if another cop, let's say, that I'm not -- looks up a
15 vehicle's license plate, the picture, when he passed me
16 that day, will pop up and show he was in Bexar County on
17 IH-35, here, because my -- while I'm sitting there, it's
18 snapping pictures of vehicles as they're passing by.

19 Q Okay. And so -- do you have to turn your
20 license plate reader on? Did you have to turn your
21 license plate reader on?

22 A I believe -- I think they're always on. When I
23 had to look stuff up, I had to log in and look it up.
24 But as far as the license plate readers -- I may be
25 wrong, because again, I'm not a technical guy with it --

1 I believe it's always on.

2 Q Okay.

3 A It's always taking pictures. As long as the
4 vehicle's running, I believe those things are snapping
5 pictures of vehicles.

6 Q Okay. And what was your understanding of how
7 you were supposed to use an LPR in your criminal
8 interdiction work?

9 A For me, the understanding was -- because again,
10 I wasn't using it to find vehicles. It was more, okay,
11 if I'm going to look up a vehicle, it would just show me
12 where he's been.

13 So as I'm doing a warning -- if I have like a
14 reason to believe, when I'm talking to somebody, and I'm
15 seeing a behavior or something, that makes me think maybe
16 this guy's up to something. While I'm doing the warning,
17 I'm going to take a minute and I'm going to run that
18 plate, because if he's telling me he went to X, Y and Z,
19 I can do a quick confirmation.

20 And then at that point, let's say a guy tells
21 me I've been to X, Y and Z and I look on LPR system, and
22 as he's telling me he's been to X, Y and Z, in front of
23 me is snippets of his picture at A, B and C. So now I
24 have reasonable suspicion that he's lying. Not enough to
25 make an arrest. Not enough to go totally deep. But

1 again, part of the grouping of the reasonable suspicion
2 I'm going to build in order to move forward.

3 Q Okay. I want to talk about the stop of Alek
4 Schott.

5 A Yes, ma'am.

6 Q Did you stop Alek Schott on March 16, 2022?

7 A Yes, I did.

8 Q Was he traveling northbound on I-35 when you
9 stopped him?

10 A Yes, ma'am.

11 Q How long did you detain Alek Schott on the side
12 of the road?

13 A I don't know the exact time.

14 Q More than an hour?

15 A I believe it was just under an hour. But
16 again, I could be wrong on that too. It was two years
17 ago, but -- plus I never really --

18 Q Sure. So less than two hours?

19 A Yes.

20 Q So maybe around an hour, maybe less, maybe
21 more, but less than two hours?

22 A That's a great answer, ma'am. Yes.

23 Q Okay.

24 A That's very vague. I like it.

25 Q Did you search Alek's truck?

1 A Yes, I did.

2 Q Did you find anything?

3 A No, I did not.

4 Q Did you find any evidence of a crime?

5 A No, I did not.

6 Q Okay. Did Deputy Gereb help you search Alek's
7 truck?

8 A Yes, ma'am.

9 Q Did Deputy Molina help you search Alek's truck?

10 A Yes, ma'am.

11 Q Did either of them find anything?

12 A No, ma'am.

13 Q Did you find any evidence of human trafficking?

14 A Nnnnn...no, ma'am.

15 MS. HEBERT: I'd like to take a look at a
16 document. It's Exhibit C from our records, Jeff.

17 A Can I go back and just say something?

18 Q (By Ms. Hebert) Sure.

19 A So when I did the "nnnnn" and that long thing
20 there with my voice, the reason I say that is --

21 Q Oh, okay.

22 A -- because human trafficking -- human smuggling
23 and human trafficking are two different things. What I'm
24 looking for on these highways is human smuggling, which
25 doesn't always lead to human trafficking. The reason I

1 kind of extended that was I got a little confused with
2 trafficking.

3 One thing that I will say is -- one thing that
4 Alek Schott did have in his vehicle was a large amount of
5 empty water bottles. Now, does that mean he drank a lot
6 of water? Yes, it probably does. But one of the things
7 that it can be a grouping of, when it comes to human
8 smuggling, is it's common in a vehicle that's been moving
9 bodies south or north is a large amount of empty water
10 bottles. So that is one small little snippet of maybe
11 some reasonable suspicion when we start grouping as we
12 talked about. Because I know we're getting to that.

13 Q So you -- just to make sure I understood, you
14 saw in Alek's truck a large amount of empty water bottles
15 and you thought that might be evidence of human
16 smuggling; is that fair?

17 A I just noticed he had a lot of water bottles.
18 At that point I'm not even there yet, because we haven't
19 even approached the vehicle yet.

20 Q Sure. And what's a large amount of water
21 bottles, empty water bottles?

22 A I'd say, if I was going to put a number on it,
23 more than two or three.

24 Q Okay. Less than ten?

25 A Ten or more would be great, because that's

1 definitely abnormal. But definitely less than ten, yes.

2 Q Okay. In this instance with Mr. Schott, more
3 than two, less than ten?

4 A Yes.

5 Q Okay.

6 A And again, it didn't mean that he was human
7 smuggling. It could also just mean, which he was, he was
8 doing long travels. Which again, isn't an end-all be-all
9 of I've got a smuggler here. But it is something to keep
10 in mind when you're looking at travel patterns.

11 Q Sure. Thanks.

12 A Yes.

13 Q Thanks for clarifying that.

14 A Yes, ma'am.

15 Q I wouldn't have picked up on this.

16 MS. HEBERT: Can you hand the witness this
17 exhibit?

18 Molly, this was previously Exhibit 8. So this
19 is Plaintiff's Exhibit 8.

20 Q (By Ms. Hebert) Can you tell me what this
21 document is?

22 A Yeah. So this is my incident report for the
23 traffic stop of Alek Schott.

24 Q Sure. And for clarity, if I refer to this as
25 the SPEARS Summary -- just because it says SPEARS --

1 A Yes, ma'am.

2 Q -- at the top --

3 A Yes, that's the company.

4 Q -- I'm referring to this document, Plaintiff's
5 Exhibit 8.

6 A Yes, ma'am.

7 Q Okay. And I'd like to flip to Page 3.

8 A Okay.

9 Q So there's the number BC 166 at the bottom.
10 That's just an attorney number --

11 A Yes.

12 Q -- to help identify pages. Do you see that
13 page?

14 A Yes, ma'am.

15 Q Okay. And whose name is in the Author field?

16 A The Author field is myself, Babb.

17 Q And the Entered field?

18 A Entered is Babb.

19 Q Okay. And that's you?

20 A Yes, ma'am.

21 Q Okay. Can you tell me what the report time is?

22 A Report time? It is 15:33, being 3:33 in the
23 afternoon.

24 Q And 3:33 in the afternoon --

25 A P.m.

1 Q -- is Central Time?

2 A 3:33 p.m., yes.

3 Q And what's the date?

4 A The date is 3/18/2022.

5 Q Okay. And so does that mean that you wrote
6 this report in the afternoon on 3/18/2022?

7 A Yes, ma'am.

8 Q Did you write a report like this for every
9 criminal interdiction stop you did?

10 A Not ones like Alek Schott's. He was released
11 with a warning. This would actually be a CAD input. He
12 just was different because of, during the traffic stop,
13 towards the end, he had made a comment asking about it
14 being put on paper. So that told me he was most likely
15 going to have some sort of complaint. So I annotated a
16 report for that.

17 Q Sure.

18 A But no, the norm for this type of stop where
19 nothing was found and he was released would be an input
20 on what's called the CAD system. CAD, I believe, is
21 computer some -- I don't know. But it's the computer,
22 and I would put in that the search took place, officer
23 initiated action -- I can't remember. It's been a while.
24 But it's just a couple of little sentences to let him
25 know he was released. But no report would be done for

1 that one.

2 Q Okay. So let me just unpack what I understood
3 you to be saying. And correct me if I'm wrong.

4 A Okay.

5 Q Mr. Schott made a comment at the end of the
6 traffic stop --

7 A Uh-huh.

8 Q -- asking something about a record?

9 A He was asking -- I can't remember exactly, but
10 it was something about how is -- is it something written.
11 It's on the video.

12 Q Sure.

13 A But he said something where we talk about
14 abnormalities. That is not the normal thing you hear.
15 So me being a man who's done a lot of traffic stops, I
16 said he's probably going to have some sort of complaint.
17 And I could tell just by his face expression --

18 Q Sure.

19 A -- he was not happy.

20 Q And that comment was the day of the traffic
21 stop; is that fair?

22 A The day of the traffic stop, yes.

23 Q And the traffic stop date was 3/16/2022?

24 A 3/16, yes, ma'am.

25 Q And this report was written 3/18/2022.

1 A Yes.

2 THE REPORTER: Excuse me. Could you pause and
3 really let her finish her question --

4 THE WITNESS: Oh, I'm sorry. Yes.

5 THE REPORTER: -- before you start your answer?

6 Q (By Ms. Hebert) So this report was written on
7 the afternoon of 3/18/2022; is that correct?

8 A Yes, ma'am.

9 Q So why did you write this narrative two days
10 after Alek's stop?

11 A I don't remember if he had made the complaint,
12 and they told me about it, or if it was -- because again,
13 it wasn't a priority. It really wasn't. He -- if he was
14 going to complain, that's fine. I knew that sometime
15 here I need to throw it on paper. But again, the norm
16 was not to put it on paper. And I am pretty busy as an
17 interdiction officer doing actual case reports for people
18 that actually got arrested.

19 So again, Alek Schott at this point in time was
20 not my priority. I just had a feeling he might complain.
21 But I felt I did nothing wrong, so I was not worried
22 about his complaint.

23 Q I understand. So you might have written this
24 general report after Alek complained?

25 A Maybe. I just, I can't remember. But I know

1 it was pretty fast. He complained pretty fast. So I
2 don't -- I just -- I don't remember how I heard it.

3 Q No, that's fair. That's fair. I want to take
4 this report section by section.

5 A Okay.

6 Q And reading kind of the first sentence, I'm
7 going to read it to you.

8 A Okay.

9 Q Tell me if I get it wrong. "While working in a
10 criminal interdiction capacity wearing the BCSO tan
11 uniform with a chest mounted Axon body worn camera
12 (BWC)." Did I read that correctly?

13 A Yes, ma'am.

14 Q Okay. And why, why a tan uniform, not a blue
15 uniform?

16 A Special unit. I believe the reason he went
17 with tan -- I was not a fan of the tan uniform because we
18 look like Border Patrol and that doesn't help me in what
19 I was doing for trying to make people comfortable. The
20 tan was due to the fact we spend so much time outside of
21 our vehicle, for the sun.

22 Q And when you said, "He went with tan," who were
23 you referring to?

24 A Sergeant Gamboa created the uniform, created
25 the unit.

1 Q Okay. And your uniform said "Criminal
2 Interdiction Unit" on it?

3 A Yes, ma'am.

4 Q Okay. Where was that label located?

5 A It was over, so right side. I have to like
6 visualize. Right side. My name and unit under.

7 Q Okay. And were you carrying a gun when you
8 were doing this --

9 A Yes, ma'am.

10 Q -- criminal interdiction patrol?

11 A Yes, ma'am.

12 Q And where was your gun located?

13 A Right side, ma'am.

14 Q Okay. Did you have a taser when you were
15 carrying out criminal interdiction?

16 A Yes, ma'am.

17 Q Where was your taser located?

18 A For me, left side.

19 Q Okay. So just to summarize, you had your
20 Criminal Interdiction label on your uniform, you had your
21 gun on your right side and your taser on your left?

22 A Yes, ma'am.

23 Q And where is your body camera located on your
24 uniform?

25 A I put it directly center, right here on my

1 chest.

2 Q Okay.

3 A So chest mounted.

4 Q I want to read the second sentence.

5 A Okay.

6 Q "Driving a marked patrol Tahoe equipped with
7 internal red and blue emergency lights, front mounted
8 Vigilant license plate readers, a dash and rear seat
9 mounted Axon camera that was mistaking not activated, a
10 NCIC/TCIC computer system and a Brazos electronic ticket
11 writing system."

12 A Yes, ma'am.

13 Q Did I read that correctly?

14 A Uh-huh.

15 Q So I just want to make sure I understand all
16 the equipment that you had, and I want to understand all
17 the records of this traffic stop.

18 A Okay.

19 Q So for the equipment you listed, emergency
20 lights, license plate readers, a dash camera and a rear
21 camera.

22 A Uh-huh.

23 Q Some kind of computer system and some kind of
24 electronic ticket writing system. Did I get that right?

25 A Yes, ma'am.

1 Q And I remember at some point during the traffic
2 stop, you used a radio --

3 A Yes.

4 Q -- too. So your patrol car was also equipped
5 with a radio.

6 A My patrol car and also my body. I have a
7 handheld and also one in the vehicle, yes, ma'am.

8 Q Okay. Other than this equipment listed here
9 and the radio, did you use any other equipment in making
10 or conducting the traffic stop of Alek Schott?

11 A Well, I had used my phone.

12 Q Okay. So other than also your phone, did you
13 use any other equipment in making the traffic stop of
14 Alek Schott?

15 A Not as far as the traffic stop. In the search
16 I used, as you saw in the video, my knife, so...

17 Q Sure.

18 A And I'm sure we'll get to that.

19 Q We can talk about that. But I'm talking about
20 in making the stop, in the initial stop, did you use any
21 other equipment that's not listed here, other than your
22 phone?

23 A Nope, that's it.

24 Q Okay. I want to look at the third sentence.

25 A Okay.

1 Q And the third sentence starts -- I'm looking
2 for it. Oh, okay, here it is. "I was sitting static on
3 the side of U.S. Highway 35 South. I observed the listed
4 Ford F-250, Texas license plate LJR4135 driving over the
5 painted line on the left side of the road."

6 Did I read that correctly?

7 A Yes, ma'am.

8 Q Okay. I understand this sentence to mean that
9 you were sitting in your patrol car.

10 A Uh-huh.

11 Q Is that fair?

12 A Yes, ma'am.

13 Q So you were sitting in your patrol car. In
14 sitting static here, did you mean that your patrol car
15 and you were stationary?

16 A Yes, not moving.

17 Q Okay. And does that mean that you were sitting
18 static when you observed --

19 A Yes, ma'am.

20 Q -- the F-250 -- hold on. Does that mean you
21 were sitting static when you observed the F-250 commit
22 the traffic violation?

23 A Yes, ma'am.

24 Q Okay. And what were you doing when you saw the
25 F-250 come down the road?

1 A I was sitting in my vehicle, and I was watching
2 the traffic oncoming. So I was watching for his license
3 plate. I was looking for his license plate. And then --
4 that's it. That's what I was doing. I was sitting --

5 Q Sure.

6 A -- just like I'm sitting now, in the vehicle,
7 but turned, so I'm here. So I was always on like the
8 edge of the seat kind of watching traffic.

9 Q When you say "turn here," I'm just going to
10 make it clear for the record. Turned facing oncoming
11 traffic?

12 A Yes, ma'am.

13 Q Okay. And so walk me, walk me through exactly
14 what you saw.

15 A Okay.

16 Q You saw the F-250 driving towards you on the
17 highway. And then what happened?

18 A When I was watching him, he -- his tire went
19 and hit the line. And what I mean by "hit the line" is
20 the tire went onto the yellow line. And that is all I
21 need for a failure to maintain a lane.

22 Once I got behind him, he actually hit the
23 line, I don't remember how many times, but he did hit it
24 again.

25 Now, there's no measurement of numbers or

1 anything like that. Alls the tire needs to do for
2 failure to maintain a lane is actually touch that line,
3 that yellow painted line. So I want to make that clear
4 that it's not -- I know it sounds -- I think people are
5 imagining him going all the way over like he's a drinker.
6 No, it's as simple as just not being in your lane.

7 Q Sure. So I want to make sure I understand
8 that. You saw the F-250 driven by Mr. Schott hit the
9 yellow line that's on the left side of the highway when
10 you were watching the oncoming traffic come towards you?

11 A Yes.

12 Q Okay. And then you said that once you drove
13 out, pulled into the highway --

14 A Yes.

15 Q -- the traffic, and you were following
16 Mr. Schott, you saw him hit the painted line on the left
17 side of the road again.

18 A The fog line, yes, ma'am.

19 Q The fog line. Okay. Did you see anything else
20 that led you to conclude that Mr. Schott committed a
21 traffic violation?

22 A No. That was the only traffic violation that I
23 saw.

24 Q Okay. Let's look at the fourth sentence.

25 A Okay.

1 Q And it starts with "I activated my red and blue
2 emergency lights and initiated a traffic stop." I'll
3 read the next one too. "The listed Ford pulled over
4 without incident."

5 A Yes, ma'am.

6 Q So I understood that to mean that you activated
7 your, the lights of your patrol car.

8 A Uh-huh.

9 Q And -- not your siren.

10 A No.

11 Q So you activated only the lights of your patrol
12 car --

13 A Yes.

14 Q -- and the traffic stop started.

15 A Yes, ma'am.

16 Q And the listed Ford pulled over without any
17 incident. There was no problem in making the stop for
18 Alek Schott?

19 A Yes, that's what that means.

20 Q Was there anything in starting the traffic
21 stop, in pulling Mr. Schott over, that made you
22 suspicious?

23 A Yes, ma'am.

24 Q What was that?

25 A Upon walking up on the side of the car --

1 Q And we'll get to that. But I mean just like in
2 the act of pulling him over to stopping -- to stopping
3 the vehicle, was there anything suspicious in that
4 specific moment of time?

5 A No, ma'am.

6 Q Okay. I think you can put this to the side for
7 now.

8 A Okay.

9 Q We'll come back to it later. Let's take a
10 brief break so that I can set up the video stuff,
11 because --

12 A Okay.

13 Q -- I want to make sure the tech works.

14 A Yes.

15 Q Then we'll come back.

16 A All right.

17 THE REPORTER: We're off the record.

18 (Recess from 11:16 a.m. to 11:28 a.m.)

19 THE REPORTER: We're back on the record.

20 Q (By Ms. Hebert) Okay. Mr. Babb, you indicated
21 there's something you wanted to correct on the record?

22 A Yes, ma'am. Earlier we talked about human
23 smuggling. So when I'm on the highways, I'm looking for
24 human smuggling. You had said human trafficking. I
25 corrected you on that. But I wanted to make it clear

1 that my biggest passion in interdiction is actually human
2 trafficking, which not all, but a good number of the
3 human smuggling that takes place on the highways will
4 lead to human trafficking. So I just want to make that
5 clear.

6 Q So just one follow-up question. I'm sorry, I
7 have to ask this. What's the difference between human
8 smuggling and human trafficking? I just don't
9 understand.

10 A Yes, ma'am. Human smuggling is the movement of
11 bodies illegally across the highways. So if I was to --
12 an example would be -- let's say -- I don't want to say
13 ethical, but like, I guess, moralistic human smuggler is
14 a guy who picks up a Mexican national from a ranch, let's
15 say, from hiding in the woods, because they've already
16 crossed. He then takes them to Dallas. They get to the
17 family. They hug their aunt. They're happily ever
18 after. Human smuggling.

19 Human trafficking, I pick up a Mexican national
20 in a wood line or something at a ranch. They are in the
21 belief that they're going to Dallas to their family
22 member. I then take them to -- let's say, since we've
23 hit so many houses in this area, San Antonio into a home
24 off of 35. We then put them in a room with 30 other
25 Mexican nationals that thought they were going to Dallas.

1 We then tell the family they owe us X amount of dollars.
2 They're broke because they used their lifesavings to get
3 them here. And now, Oh, don't worry. I'm going to now
4 use your family member for sex trafficking, labor
5 trafficking --

6 Q Okay. I understand, I understand. And when
7 you were using the "I" in those statements and the "we,"
8 you are not referring to I, Deputy Babb, or I and we, the
9 Sheriff's Office. You were referring to I and we, the
10 folks who are engaging in criminal activity.

11 A Yeah, I'm giving you an example. Not me.

12 Q I just wanted to make sure, so the record is
13 not confusing about that.

14 A Yeah, no.

15 Q So we're going to watch a little bit of your
16 body camera footage here.

17 A Okay.

18 Q One question I have for you is --

19 A Yes, ma'am.

20 Q -- generally when you were doing a basic
21 traffic stop -- we talked a little bit about those
22 before --

23 A Uh-huh.

24 Q -- how long does it take you to write a
25 warning?

1 A I'm using their driver's license, as long as
2 they have it, and I'm typing their name. So it can be up
3 to -- because I don't type very fast, sometimes
4 10 minutes, at the most. That's the max.

5 Q Sure. And we're about to watch your body
6 camera footage. I'm going to ask you about some of these
7 numbers so we understand them.

8 A Okay.

9 Q It's your body camera footage first. What are
10 these numbers that you see at the top right part of the
11 screen?

12 A So that is the date, and I think that's the
13 time. I never really looked at that. But I know that's
14 the date for sure. The one on the bottom, I don't know
15 what it is. I'm sure it's some sort of marking for the
16 video itself for Axon so we can look it up.

17 Q Sure.

18 A But I've never really had to even look at that.

19 Q That's fine. And the time, I heard -- and I
20 believe this time stamp is in Zulu time. Can you tell me
21 what Zulu time is?

22 A You know, ma'am, I can't. Because I have no
23 idea how to -- I don't deal with that.

24 Q Okay. And this Axon body number, if it was
25 your body camera, then it would have all the same Axon

1 body number?

2 MR. LEAKE: Objection, form.

3 A I'm not sure -- I'm not sure how that works.

4 Q (By Ms. Hebert) Okay. I just wanted to ask.

5 MS. HEBERT: Okay. I'm going to introduce this
6 exhibit, Molly, as exhibit -- what number are we on,
7 Jeff?

8 MR. ROWES: 44.

9 MS. HEBERT: -- as Exhibit 44. Plaintiff's
10 Exhibit 44. Molly, I will get you a copy somehow.

11 Q (By Ms. Hebert) You're familiar with this
12 footage --

13 A Yes, ma'am.

14 Q -- Mr. Babb? And this is your body camera
15 footage from the stop of Mr. Schott; is that fair?

16 A Yes, ma'am.

17 Q Okay. I'm going to play some of this footage,
18 if that's all right. And if you can't hear it, please
19 let me know.

20 A Okay. There will be no sound for the initial,
21 I think, 30 seconds. That's the norm for body cameras.

22 Q Okay. I'm going to start that again then. So
23 it's going to be silent here?

24 A Yes. I believe it's 30 seconds.

25 Q Okay. So we're going to start at 00 and then

1 just watch the first 4 seconds.

2 A Okay.

3 (Video played.)

4 Q Okay. In what we just watched, your patrol
5 vehicle is already moving at this point; is that fair?

6 A Yes, ma'am.

7 Q Okay. And at this point, when you are already
8 moving, had you -- you had seen Mr. Schott hit the fog
9 line; is that fair?

10 A Yes, ma'am.

11 Q Okay. And had you done anything else?

12 A No, I just pulled out. Just to clarify, this
13 camera starts -- the way these systems are set up, when I
14 take the little switch to turn on the lights, that
15 actually activates your body camera. So that's why we're
16 already on the roadway if we're getting to that, just so
17 you know.

18 Q Okay.

19 A When I activate lights, body camera starts.

20 Q Okay. So you've already activated your lights
21 at this point?

22 A If the camera's rolling, yes.

23 Q Okay. Now, we're stopped at 004 here.

24 A Okay.

25 Q Do you see your computer there?

1 A Uh-huh.

2 Q And can you read the screen at all?

3 A Not really, ma'am.

4 MS. HEBERT: Okay. Let me -- let's bring out
5 Exhibit M, Jeff. And I just took a screenshot of that
6 part. It's not clear exactly, but I took a screenshot of
7 that point at 0:04.

8 MR. ROWES: There you go.

9 Q (By Ms. Hebert) And we're handing you what's
10 marked -- what's the exhibit number of this one?

11 A 44[a], ma'am.

12 Q -- what's marked Exhibit 44[a]. Is
13 Exhibit 44[a] exactly what you're seeing on the screen up
14 there?

15 A Yes, ma'am.

16 Q And on this image, I see kind of a white screen
17 on your computer screen with like a bar across it.

18 A Yes, ma'am.

19 Q And to me it looks like it's saying "license
20 plate" at the top of that bar. Is that fair?

21 A Uh-huh.

22 Q I'm sorry, you have to say --

23 A Yes. I'm sorry. Yes, ma'am.

24 Q So to me it looks like it says "license plate"
25 at the top of that page; is that correct?

1 A Yes, ma'am.

2 Q Okay. What is this screen?

3 A This looks to be the LPR screen. When you look
4 up on Vigilant license plates, those are your snippet
5 pictures I was telling you about earlier, showing
6 pictures of his vehicle where he has been.

7 Q Okay. And so this -- when -- this screen
8 essentially of the license plate reader just shows you
9 like the list of the pictures?

10 A Yes, ma'am.

11 Q Okay. At this point, do you know if you had
12 entered Mr. Schott's license plate in the screen?

13 A Because I can't read the picture -- most likely
14 I have.

15 Q Okay.

16 A Because I will tell you that when I get any
17 type of intel, one thing I want to do is if he's -- if
18 it's something like an irregular travel pattern, what I
19 like to do is use this to kind of confirm what I'm
20 getting as the intel to kind of see if it's matching up.

21 However, I also want to tell you that we use
22 Vigilant license plate readers. There's, I believe, two
23 or three other companies that do license plate readers.
24 So when I type in a license plate on Vigilant, it's only
25 going to show me snippets from Vigilant license plate

1 readers. And if there's other company license plate
2 readers at places that snapped them, I'm not going to see
3 those, except for that one company we're in contract
4 with.

5 Q Okay. I'm going to watch the next little bit.

6 A Okay.

7 Q I'm going to watch from 0:04 to 0:30.

8 (Video played.)

9 Q Okay. We're actually one second over to 0:31.

10 A Okay.

11 Q So to summarize what we just watched to make
12 sure that I'm getting it, the vehicle's moving the entire
13 time in the clip that we just watched; is that correct?

14 A Yes, ma'am.

15 Q But the video is completely silent, and then
16 right at 0:30 or maybe 0:29 we hear a beep-beep and then
17 the sound starts.

18 A Yes, ma'am.

19 Q Can you tell me what happened with the sound
20 there?

21 A I was mistaken. Again, it's been a while. So
22 what you just looked at, the silent part of the camera is
23 before the camera activates. So the way it's -- I
24 forgot. So the way it works is, when you activate -- so
25 whether it's -- so in this case, the lights activated the

1 camera.

2 If I would have been outside the vehicle and
3 activated the camera, the way Axon cameras work is,
4 activate camera, your video starts 30 seconds before you
5 activated the camera. And that's what's silent.

6 So actually, when you hear the beep, this is
7 when the lights activated, and the 30 seconds you saw
8 before was not activated lights, to make that clear.

9 Q Okay.

10 A I -- it's been a year.

11 Q No, that's helpful. So at approximately 0:30
12 is when you turned on your lights.

13 A Yes, ma'am.

14 Q Okay. I'm going to watch another portion of
15 the video. We're going to watch from 0:30 to like a
16 minute and a half. So buckle up.

17 A Okay.

18 (Video played.)

19 Q Okay. I'm going to stop there, and I stopped
20 at 1:24.

21 A Okay.

22 Q In the portion of the video that we just
23 watched that captures, again, your patrol car moving; is
24 that correct?

25 A Yes, ma'am.

1 Q And we see you touch your computer; is that
2 correct?

3 A Uh-huh.

4 Q And the screen --

5 A Yes. Sorry.

6 Q And the screen changed; is that right?

7 A Yes, ma'am.

8 Q And you started to type something in; is that
9 right?

10 A Yes, ma'am.

11 Q Do you remember what you were typing in?

12 A Yes, ma'am. So what you're looking at is the
13 screen of the NCIC/TCIC system. This is the system that
14 we use. It's the National and the Texas -- I don't know
15 the actual wording, but what it is, is this is the
16 machine that is going to show me everything as far as I'm
17 typing in his license plate now. What that's going to do
18 is bring up the backdrop of his vehicle and tell me
19 things like if his insurance is confirmed, if it has --
20 if it's a stolen vehicle, it will show me that.

21 But what it's also doing and what I'm in the
22 action of doing now is putting myself on the map. And
23 what I mean by putting myself on the map is once this
24 thing gets clicked, it makes a little siren noise. It
25 now is allowing dispatchers to see on the screen, oh,

1 look, he's got a traffic stop and he's at this area.
2 So -- and it will show like where I'm at on the map.
3 That's all I'm doing is I've activated with the lights
4 and now I'm doing the license plate and putting me on the
5 map for, so dispatch knows where I'm at.

6 Some officers choose to do this prior to
7 activating lights. Some officers do it like me, after.
8 It just depends on the officer.

9 Q Sure. And I understand that. What I just want
10 to make clear is I want to understand what you were
11 doing. So you were running the license plate through the
12 national license plate records system?

13 A Yes, ma'am. I'm not looking at that yet. The
14 main reason I'm doing this is just so my dispatchers see
15 where I'm at. But yes, I will come back later and look
16 at that.

17 Q Okay. So those two things, the national
18 license plate records system and the dispatch thing, they
19 work in tandem?

20 A Yes.

21 Q You do both at the same time?

22 A They see what I see basically is what I'm
23 saying. They see everything I'm doing on the computer on
24 their computer.

25 Q Okay. So you enter it in. It alerts the

1 dispatch to what license plate you're looking at and
2 where you are.

3 A Yes, ma'am.

4 Q Okay. And when you run the license plate
5 records through the NCIC/CTIC --

6 A NCIC/TCIC.

7 Q TCIC. Sorry.

8 A I think it's National Command Information
9 Center and Texas Command -- something. I used to teach
10 it.

11 Q So we're going to call it "the computer" for
12 now.

13 A Yeah.

14 Q So when you run the license plate through the
15 computer, you're pulling up the national records and the
16 state records on this vehicle --

17 A Yes, ma'am.

18 Q -- is that correct? And what does that tell
19 you?

20 A It can tell me if he's got insurance. It can
21 tell me -- the most important thing for me is it's going
22 to tell me if it's stolen, and it's going to make a big
23 noise if it's stolen. And that's good for my safety to
24 know what I'm dealing with before I walk up to this car.
25 Depending on my situation, usually I won't even

1 look at any of the background stuff until I get going
2 into the traffic stop itself, after I've obtained his
3 driver's license. Because what the system also does, and
4 you'll see me doing that too, is do, off the license
5 plate name and date of birth, the background check.

6 And that is the policy of Bexar County and any
7 other agency during a traffic stop, what you do during a
8 traffic stop. That's normal traffic stop. If I'm giving
9 you a ticket, prior to making that ticket, I'm going to
10 run your name and date of birth, and I'm checking to make
11 sure you don't have warrants, I'm checking to make sure
12 you aren't a sex offender that's within a certain --
13 whatever it is it's all going to come up on there.

14 Q Sure. And that makes total sense to me. So
15 you said you enter this in.

16 A Uh-huh.

17 Q You pull the records up. And you're going to
18 look at it to make sure it's not stolen or there's not a
19 warrant out --

20 A Uh-huh.

21 Q -- before you get out of the patrol car for
22 safety reasons.

23 A Yes, ma'am.

24 Q How does that pop up? When you run the, the
25 license plate through the record, does it pop up?

1 A Do you have a laser pointer or something?

2 Q I do not.

3 A It doesn't matter.

4 Q Actually, I do have multiple printouts of the
5 screen, so let's use that.

6 A If you look --

7 Q Hold on. Let's pull it up. Can we do
8 Exhibit N, mark that as the next exhibit? And Exhibit N
9 is --

10 MR. ROWES: 45.

11 Q (By Ms. Hebert) -- going to be Exhibit 45. And
12 that is a picture of the screen at one second back. So
13 I'm going to have to play a little bit.

14 MR. LEAKE: You said 45?

15 MR. ROWES: 45.

16 Q (By Ms. Hebert) Okay. So we've handed you what
17 is marked Plaintiff's Exhibit 45.

18 A Okay.

19 Q That is a screenshot of the vehicle at 1:23.
20 I'm showing 1:23. Do you see any differences between the
21 screenshot that you have and the video right now?

22 A No, ma'am.

23 Q And I made sure that I was really precise, so
24 there should be no differences.

25 A Okay.

1 Q Do you see what you typed into your screen
2 there?

3 A I do, ma'am.

4 Q And is that the license plate of Mr. Schott,
5 license plate number?

6 A Yes.

7 Q And I see you just checked --

8 A I'm just making sure, yeah.

9 Q -- Plaintiff's Exhibit 8 with Exhibit 45 to
10 confirm that it's Mr. Schott's license plate.

11 A Yes, ma'am.

12 Q Okay.

13 MR. LEAKE: Remember to wait until she's
14 finished with her question before you start.

15 THE WITNESS: Okay. Sorry.

16 Q (By Ms. Hebert) And what program or app were
17 you typing Mr. Schott's license plate into at that point?

18 A This is the NCIC/TCIC system, ma'am.

19 Q Okay. And then you wanted to use some kind of
20 laser pointer. How about just look at the screenshot and
21 help me understand what you're -- what's happening.

22 A Just so you know when I --

23 Q And you can mark it up.

24 A Okay. So what's going to happen is I'm going
25 to type in his license plate here, and then there is a

1 option --

2 Q Why don't you draw an arrow to like --

3 A Okay.

4 Q Because otherwise they can't quite see it on
5 that.

6 A LP input. And then I'll press this button
7 here, which is a border crossing option. What that's
8 going to do is it's going to show me again any -- there's
9 I guess some sort of systems that are intact with
10 NCIC/TCIC where if you do a border crossing or cross any
11 type of, at the southern border checkpoints, it will show
12 that you were there. So just another way for me to kind
13 of see --

14 Q Flag something?

15 A Yes. Once I do that, I'll hit "submit," which
16 is right here. And when that happens, this printer here
17 will blink. And in order to check all of the records
18 that come up for that car or truck, when I press the
19 printer on the screen, each time I press it, it's a
20 different page. And it will blink until I've gone
21 through all pages.

22 Q Okay.

23 A So that's what you're looking at here.

24 Q Got it. So it confirms essentially that you've
25 looked at every page?

1 A Yes.

2 Q And no alert pops up and says warrant out for
3 arrest?

4 A No, ma'am.

5 Q You have to look through --

6 A No, no. I'm sorry. Go ahead.

7 Q You have to look through the record for a
8 particular person?

9 A So when it comes to stolen vehicles and
10 warrants, what's good about this system is, because not
11 all of us are doing that, because we're also driving, it
12 will buzz. It will make a buzzing sound for stolen
13 vehicle and warrant. So I will know, okay, this guy's
14 got a warrant, there's something bad going on.

15 There's also one for a child safety checklist
16 for missing children, things like that. It does a lot of
17 good things.

18 Q Sure.

19 A But it does alert us when we have something.

20 Q Okay. And so if you have something, it's going
21 to buzz or bing or make some kind of noise?

22 A Yes, ma'am.

23 MR. LEAKE: Objection, form.

24 Q (By Ms. Hebert) Okay. How would you
25 characterize the noise?

1 A I guess I'll just do it. Dun-unt. It sounds
2 like that.

3 Q Okay.

4 A There it is, just like that.

5 Q Let the record reflect he said a noise that
6 sounds kind of like -- oh, what's that shark -- Jaws,
7 dun-unt, the beginning of Jaws music.

8 A Yes.

9 Q So did you hear a dun-unt noise when you ran
10 Alek Schott's --

11 A No, ma'am.

12 MS. HEBERT: Blair, keep it together.

13 Q (By Ms. Hebert) Did you hear a dun-unt noise
14 when you ran Alek Schott's license plate through the
15 system?

16 A No, ma'am.

17 Q Okay. Did you review the records for Alek
18 Schott's vehicle when you ran it the first time right
19 here?

20 A I can't remember. And sometimes I do;
21 sometimes I don't. So I can't remember. We'll find out
22 in a second I know, but yeah, I don't know.

23 Q So you ran it through the system, no alert
24 happened. We're going to continue on.

25 A Okay.

1 Q We're going to watch to 1:44, so a little over
2 a minute.

3 (Video played.)

4 Q Oh, I stopped at 1:45. I'm sorry. So in the
5 portion of the video we watched, you're still driving
6 here; is that fair?

7 A Yes, ma'am.

8 Q And you retyped the license plate number.

9 A Yes.

10 Q Why did you do that?

11 A I don't know. I must have typed it wrong or
12 something.

13 Q Okay.

14 A Yeah, I don't know.

15 Q And the next screen that appeared to come up
16 was white -- is white.

17 A Uh-huh.

18 Q Do you see that screen?

19 A Yes, ma'am.

20 Q What are we seeing on that white screen?

21 A So when you hear me refer to a CAD system, this
22 is the CAD screen. This is the screen that now, when we
23 talked about dispatchers seeing, dispatchers can see
24 exactly this.

25 Using this screen, it initiates a traffic stop,

1 shows dispatch that I have a traffic stop, allows
2 dispatch to type messaging, whether -- like if I didn't
3 look and it was a stolen vehicle or something was going
4 on, they could actually type and put it on there as a key
5 note for me to not -- if I don't want to write things
6 down in a notebook, I can get on the radio and say, Hey,
7 please put this on my key card. So "Can you time stamp
8 Miranda warning? Please time stamp my Miranda warning."
9 Boom, Miranda warning at this time, rather than writing
10 it down.

11 Q Okay.

12 A So this is the system we're using now to
13 receive information and give information to dispatch.
14 But that is most likely printouts that you have of all
15 the messages, if there were any.

16 Q Okay.

17 A Which there shouldn't be many for this one.

18 Q So let's look back at Plaintiff's Exhibit 8,
19 your report.

20 A Okay.

21 Q I just have a suspicion here, and I just want
22 to confirm that I'm understanding this right.

23 A Okay.

24 Q So when you run this record through the CAD, is
25 that the time, at the very first page where it says

1 report time 11:15, is that that moment that creates
2 itself? It's okay if you don't know.

3 A I don't know.

4 Q I just was curious --

5 A I don't know.

6 Q -- if that's how it works. Like by running
7 this system and starting whatever button you started and
8 the CAD works, like whether that automatically creates
9 the start of the SPEARS Summary.

10 A I don't know. I'll be honest with you, ma'am,
11 when I do my reports, when I'm like making arrests or
12 anything, the only thing I look at and the only thing, I
13 hate to say, care about during that arrest is this.
14 Because this is what I'm giving to a DA, this is what
15 they're going to take my arrest and -- all this other
16 stuff here I just, it's what -- if I understand
17 correctly, using the system that we use for report
18 writing, it's kind of like -- best way to describe it is
19 TurboTax. It has the little green dots and red dots for
20 filling in information.

21 Q I understand.

22 A That's -- yeah.

23 Q So I'm just going to clean up the record a
24 little bit. So when you say the only part that you care
25 about is this, you're referring to your narrative report

1 part of Plaintiff's Exhibit 8.

2 A And what I mean by "care" is, as far as -- I
3 have horrible ways of putting things, so that sounds
4 rough. But yes, what I mean by "care" is in my job and
5 what I do in my law enforcement position, this is the
6 important part for me to make my arrest, to annotate
7 information, and to make it clear so that when we're in
8 these situations, you know what's going on and what
9 happened.

10 Q Sure. And I just want to be clear. By "this"
11 you mean BC 166 the general report narrative portion of
12 Alek Schott's traffic stop SPEARS report.

13 A Yes, ma'am.

14 Q Okay. And so then would you say that your
15 report, what you have in your report is the best record
16 then of your understanding of what happened at the stop?

17 A Yes, ma'am.

18 Q Okay. And you generally try to put everything
19 into that report; is that correct?

20 A I do, ma'am, yes.

21 Q Okay. Would there ever be anything that you
22 leave out of the report?

23 MR. LEAKE: Objection, form.

24 A No, there wouldn't be. In this case, for
25 whatever reason, I did not put anything for the

1 intelligence that I had. And I know that's probably
2 where we're going. And I'm not trying to step ahead of
3 you.

4 Q (By Ms. Hebert) Sure.

5 A And I don't have a reason for putting it
6 there -- for not putting it there. I just didn't. But I
7 just went with the probable cause. But yeah.

8 Q Okay. Well, we can get to the intelligence
9 piece.

10 A Okay.

11 Q In a few minutes. But other than the -- and we
12 can talk about this report. But I mean generally
13 speaking, you try to put everything that happened --

14 A I do.

15 Q -- at a traffic stop in the report --

16 A Yes, ma'am.

17 Q -- is that correct?

18 A Yes.

19 Q And you just talked about the intelligence
20 piece, and we're going to dig into that and like
21 understand that full nuance in a little bit. But other
22 than that intelligence piece, is there anything that you
23 think -- you feel that you omitted from this narrative
24 report?

25 A No. This is the standard of what I'll cover in

1 the report.

2 Q Sure. And just because that might make going
3 through the rest of this just shorter, but I just want to
4 make sure that, you know, this is your report, this is
5 your accurate memory of what happened and what caused you
6 to do certain things.

7 A Yes, ma'am. And just, can you explain what you
8 mean by the word "omitted"? What is that? Because I'm
9 not --

10 Q Sure. No. Was there anything that you did not
11 include in your report?

12 A Other than what I just spoke of?

13 Q Other than what you just spoke about.

14 A From my memory, no.

15 Q Okay.

16 A Everything should be here.

17 Q All right. So I'm going to just clarify that.
18 Other than stuff about the intelligence background --

19 A Yes, ma'am.

20 Q -- was there anything that you did not include
21 in your report?

22 MR. LEAKE: Objection, form.

23 A No, ma'am.

24 Q (By Ms. Hebert) Okay. And I just -- let's just
25 take a step back there. So you -- we already talked

1 about the fact that you did not include the intelligence
2 piece in your report.

3 A Uh-huh.

4 Q Was there anything that motivated your decision
5 that you needed to call the canine not in that report?
6 So did you not include anything in the report -- did you
7 not include any reason -- I'm trying to find another word
8 than omit. I keep wanting to say omit.

9 A No, that's fine.

10 Q Can I use omit now?

11 A Yeah, absolutely.

12 Q Did you omit any reason, any justification that
13 you had for calling the canine?

14 A No, ma'am.

15 Q Okay. So all the reasons why you called the
16 canine are in this report.

17 MR. LEAKE: Objection, form.

18 A No, no, there's going to be other things that I
19 didn't put. I just put a list of things I seen --

20 Q (By Ms. Hebert) Sure.

21 A -- I've seen. But I can tell you that there's
22 other little things that I'll discuss with you that --

23 Q Okay, sure. Then we can continue on with the
24 body camera footage.

25 A Okay.

1 Q So I'm stopped at 1:45. We talked about the
2 CAD screen. I'm going to play from 1:45 to 2:13.

3 (Video played.)

4 Q Okay. I just stopped at 2:13; is that correct?

5 A Yes, ma'am.

6 Q And you see the time stamp here at the bottom
7 that says 2:13 on the bar for the video itself?

8 A Yes, ma'am.

9 Q And what time, what time stamp is up in the
10 right-hand corner?

11 A It looks like -- is that 16:15?

12 Q Okay.

13 A Yes.

14 Q And 38 seconds. So we just watched your patrol
15 car slow down and come to a stop; is that correct?

16 A Yes, ma'am.

17 Q And it looks like you got out of the car.

18 A Uh-huh.

19 Q Is that fair? Between the moment that you
20 stopped your patrol car and you got out, did you see
21 anything in this moment about Mr. Schott's vehicle that
22 was suspicious?

23 A No, ma'am.

24 Q Okay. And I want to watch the next part, 2:13
25 to 2:22.

1 (Video played.)

2 Q We just watched a portion of your body camera
3 where you approached Mr. Schott's passenger side of his
4 vehicle; is that correct?

5 A Yes, ma'am.

6 Q Okay. Did you see anything at this point that
7 made you conclude that the driver of this vehicle might
8 have committed any crime other than allegedly drifting
9 over the fog line?

10 A Not yet. But what I did observe at this point,
11 which was abnormal and is sometimes a, it can be a factor
12 in this reasonable suspicion buildup of a grouping of
13 things, he was sitting with his hands up like this.
14 While, again, this could just be a thing that somebody
15 does because they're extremely nervous. The norm for the
16 average motoring public is to place the hands on the
17 steering wheel and sit rigid with windows down, is what
18 most people do.

19 Again, this is not something at this point I
20 say to myself, Oh, I got me a criminal here. However, as
21 we start adding things throughout the stop, this is one
22 of the factors I may put into my abnormality of behavior.

23 Q Okay. Let's watch the next section, 2:22 to
24 2:36.

25 (Video played.)

1 Q Okay. So we just stopped on 2:36. And in this
2 portion, we watched you approach Mr. Schott's vehicle,
3 speak to him through the open passenger window. You
4 identified yourself. Is that correct?

5 A Yes, ma'am.

6 Q And I heard you say, "The only reason I'm
7 stopping you is" -- "I'm stopping you is because you were
8 drifting over the fog line pretty hard." Did I get that
9 right?

10 A Yes, ma'am.

11 Q And other than drifting over the fog line, was
12 there any other reason that you were stopping Mr. Schott?

13 A Yes, ma'am.

14 Q Okay. Tell me about that.

15 A So again, that was the intel I had received
16 about him doing a one-day turnaround and the travel route
17 that he took with a female passenger heading to a hotel,
18 dropping a female off and heading back. So the irregular
19 travel pattern was the reason I was actually doing the
20 stop.

21 The reason I said "the only reason is," again,
22 so in the game of interdiction, as we talked about
23 earlier, I want to make sure everybody I'm speaking to is
24 relaxed and as comfortable as possible. So I have a way
25 of verbiage that I use to kind of not sound like the

1 average officer, hence being first name basis, the laid
2 back attempt of sounding like the only reason -- is just
3 a -- it's to relax him and try to make him more
4 comfortable with me as far -- as part of the criminal
5 interdiction of what I do in my training, with building
6 rapport.

7 At this point it is a traffic stop, but I want
8 to build rapport with everybody I have a traffic stop
9 with to make them as comfortable, because unfortunately,
10 in today's world, as I'm sure you've seen in your line of
11 work, a lot of police officers have no idea how to talk
12 to people, so people are expecting a bad turnout of how
13 we're going to talk to them.

14 Q Okay. And why do you want people to be
15 relaxed?

16 A Because I really want to be able to -- as I'm
17 talking to them and expressing to them what I'm doing, I
18 want to make sure that they're relaxed so that if I start
19 seeing any type of behavior, being deceptive behaviors or
20 anything, as we're talking or having conversation, I want
21 to make sure that I can get a good analyzation of
22 behaviors.

23 And you're not going to get good behavior --
24 you're not going to be able to analyze somebody's
25 behavior of deception unless they're comfortable and

1 relaxed. If somebody's uptight and nervous, it's going
2 to be harder for me to do my job as an interdiction
3 officer with behavioral analysis.

4 Q Okay. You started talking a little bit about
5 the intel that you got. I feel like you want to go
6 there, so we'll just talk about that now.

7 A Okay.

8 Q How did you get this intel?

9 A Using WhatsApp.

10 Q Okay. And tell me how that worked. How did
11 you use WhatsApp?

12 A So WhatsApp is a -- you know what WhatsApp is?
13 It's an application that is used for communication, like
14 texting type stuff application. I had found out, and I
15 don't remember who, but somebody had mentioned to me that
16 they're getting a lot of human smuggling busts using
17 WhatsApp on a group called, I believe it was Northwestern
18 or Northwestern Highway. I don't remember the name off
19 the top of my head. I'm sure we can look at that.

20 However, with that is -- with that, there's
21 Fusion Centers involved in it. I've heard that it's
22 Laredo Fusion Center and other Fusion Centers, and you've
23 got interdiction, criminal interdiction, regular
24 patrolmen all on this app all throughout Texas on this
25 WhatsApp.

1 And what happens is they -- there's guys that I
2 guess that sit in Fusion Centers, again, because I don't
3 work in one. I just -- this is how it's explained to me.
4 They -- people that their job is to sit in Fusion Centers
5 and actually watch travel patterns on the highway, being
6 LPR reads and whatever other cool stuff they have that I
7 don't know what it is.

8 They see that somebody is doing a one-day
9 turnaround. Let's say somebody leaves Houston or
10 anywhere from way up North Texas and drives all the way
11 to Mexico, Carrizo Springs or anywhere southern where a
12 lot of our high crime is, our source cities, I guess
13 we'll call it. At that point, does a one-day turnaround,
14 comes back. In the criminal interdiction world, the
15 world of human smuggling and narcotics smuggling, that is
16 one of the travel patterns that usually go with it. Not
17 always.

18 Again, there are situations where let's say a
19 Mexican family, a Mexican national will do a one-day
20 turnaround, drive all the way to Houston for a
21 quinceañera, turn around the same day and come back home.

22 I as an interdiction officer know that. So not
23 automatically think when I get that intel I've got a
24 smuggler. I know that I have to do what I'm doing here,
25 which is start kind of studying what I'm looking at and

1 hearing. It takes a lot of concentration, and you have
2 to really pay attention to detail in this type of police
3 work.

4 Q I understand that. So let's talk about this
5 stop then. You got something through WhatsApp. What did
6 you get through WhatsApp?

7 A That Alek Schott did leave Houston -- and I
8 don't remember the details of it, but what it came down
9 to was he left Houston with a female passenger. He ended
10 up going all the way to Carrizo Springs. What I was told
11 was that he dropped a female off at a hotel. And then
12 from that portion, the same day turned around from
13 Carrizo Springs to head back to Houston. So the one-day
14 turnaround. And I can't remember if he told me there was
15 a pattern of those travels. But again, this is just
16 simple as checking him out, being -- find PC, stop him,
17 see what you get. And if it's nothing, then "Have a nice
18 day. Here's your warning."

19 Q Sure.

20 A That's it.

21 Q So how -- I guess I don't understand entirely
22 how WhatsApp provides that for you. So, you know, I've
23 used WhatsApp when I was living internationally. It was
24 just like text messages.

25 A It is.

1 Q Just a chat.

2 A Yeah.

3 Q Is that fair?

4 A Yes, ma'am.

5 Q Okay. So how did you get information from
6 WhatsApp?

7 A So -- and this is the -- the individual's name
8 was Kiki. And that's what I know him as. I don't
9 think --

10 Q Can you spell that for us?

11 A I can, but it's probably not going to be right,
12 because I don't know him like that. If I was to say it,
13 it's probably K-I-K-I.

14 Q Okay. That's what I would guess too.

15 A Okay. So he -- from what I understand, I
16 believe -- and I don't know for sure, but he works at, I
17 believe, the Laredo Fusion Center. I think he's the main
18 individual, one of the main individuals that actually
19 watch and see these travel patterns. And what they'll do
20 is -- they're aware of who's on the group. So they know
21 that he's got -- they don't know us by name. They know
22 us by Bexar County or whatever our WhatsApp name is.

23 I think mine was actually Joel. I can't
24 remember correctly, because it was just a WhatsApp. But
25 he let's you know like, Hey, I've got a guy that did a

1 one-day turnaround. Just so you know, he's headed
2 northbound. He was last picked up on mile marker X, Y or
3 Z.

4 So mile markers are -- on the highway, you see
5 those little green rectangular signs, those are called
6 mile markers. A lot of times at those mile markers,
7 that's usually where LPRs are located. So he'll say that
8 the last thing he picked up was he's heading northbound
9 I-35. He just passed mile marker X, Y or Z.

10 For me, back then, I actually knew what mile
11 marker was right before our county line, so I would know
12 at that point, oh, he's coming my way. Let me take a
13 look and wait for him.

14 Some of these LPR pictures that we get on this
15 thing is literally a snapshot, and you'll actually see a
16 picture laying in the back of a bed of a truck like this.
17 It's that's significant to use these things. So that's
18 how that happened.

19 Q Okay. So would it be fair then to say that
20 Kiki put information in the chat and you saw that
21 information in the chat? Am I understanding you
22 correctly?

23 A So if I remember correctly, ma'am, he did say
24 that somebody had a one-day turnaround and was heading
25 this way. The phone call during the traffic stop he was

1 really starting to detail out what he was seeing when I
2 told him that we had a positive canine alert.

3 Q Okay.

4 A But yeah.

5 Q So let me make sure I understand that then. So
6 you saw information from Kiki or someone else in this
7 Northwest Highway chat.

8 A Yes.

9 Q Is that correct?

10 A Yes, ma'am.

11 Q And you stopped Mr. Schott. We don't need to
12 get into why or how that happened. You stopped
13 Mr. Schott. And then during the traffic stop of
14 Mr. Schott, when you were searching Mr. Schott's vehicle,
15 you received a call from Kiki; is that correct?

16 A Yes. Yes, ma'am.

17 Q Okay. So the information that you received
18 from Kiki before the traffic stop, what would that be?

19 A If I remember correctly, it was just the coming
20 from Houston, female passenger, one-day turnaround. I'm
21 sure there was more to it. But the way it worked with
22 this, with the WhatsApp was they would tell you that
23 somebody was coming and tell you the license plate number
24 and direction they're traveling and the reason they're
25 having you check them out is because of travel patterns

1 or anything like that.

2 And it's doing nothing more than finding PC and
3 just checking them out, meaning what I'm doing here, I
4 found the PC, I'm giving him a warning. But as I'm doing
5 that, as I told you, I've already at this point --

6 Q Sure.

7 A -- seen the man with his hands up doing some
8 irregular things, so I'm going to go farther.

9 Q Okay. So I just want to make sure I understand
10 the events of how you got information from the WhatsApp.

11 There was -- as I understand it, you remember
12 there was information in the WhatsApp message that
13 Mr. Schott -- you don't know Mr. Schott, so it was in the
14 WhatsApp information that there was a vehicle --

15 A Uh-huh.

16 Q -- coming from Houston; is that correct?

17 A Yes, ma'am.

18 Q Did they give you Mr. Schott's license plate
19 number?

20 A Not coming from Houston. Coming -- well, he
21 came from Houston. But when I was looking for him, he
22 was coming from Carrizo Springs.

23 Q Okay. So I just want to like understand the
24 whole picture of what information -- did you receive
25 Mr. Schott's license plate number?

1 A Yes.

2 Q Okay. Did you receive where he had started
3 from, which was Houston?

4 A I believe so.

5 Q And then what else did you receive?

6 A Just the travel pattern of he had left at
7 so-and-so in the morning from Houston, went to Carrizo
8 Springs, and the information that makes me want to look
9 at him or that makes them want me to look at him is that
10 one-day turnaround, that travel pattern.

11 Q Okay. So basically, it's the one-day
12 turnaround plus that there was a female passenger?

13 A Yeah. And I believe -- and I think I say it in
14 there -- I don't remember, but I heard it in the video
15 when I was reviewing, I think he had also said that when
16 he left that morning he was riding tandem with another
17 vehicle. I did not witness him riding tandem with
18 another vehicle. However, they, I believe, reported that
19 it was a tandem run. He had -- that they saw a vehicle
20 tandem.

21 Q Sure. And I just want to make sure that I
22 understand. So there are two buckets of information.

23 A Uh-huh.

24 Q Right? There's the bucket of information that
25 you got through the chat, and then there's the bucket of

1 information you got through the call. Am I understanding
2 that right?

3 A Yeah.

4 Q Okay. So I want to talk about bucket one.

5 A Okay.

6 Q The first bucket of information that you got
7 through the chat, what information did you get from the
8 chat?

9 A What I just said. It was the name --

10 Q Name.

11 A -- the license plate --

12 Q License plate.

13 A -- and the one-day turnaround, and a female
14 passenger. That's what I remember.

15 Q Okay.

16 A Again, there might have been more, but at a
17 minimum, that's what I got to tell me, Hey, let's check
18 this car out.

19 Q Okay. So those are the four things. From the
20 chat, I just want to make sure I'm remembering correctly,
21 you got Mr. Schott's name.

22 A Yes.

23 Q You got the license plate number.

24 A Yes.

25 Q You got the one-day turnaround.

1 A Yes.

2 Q And you got there was something about a female
3 passenger.

4 A That he had a female passenger, yes, ma'am.

5 Q Okay. So there were four things that you got
6 from the bucket of information from the chat.

7 MR. LEAKE: Objection, form.

8 Q (By Ms. Hebert) I want to talk about the bucket
9 of the call.

10 A Yes, ma'am.

11 Q The call happened after the stop had already
12 occurred.

13 A Yes.

14 Q And what did you learn at that point?

15 A So what that phone call was was he was just
16 seeing -- because I think I had put on the chat that I
17 made the stop, just letting him know I'm making the stop.

18 He called me --

19 Q Okay. I'm going to put a pin in that.

20 A Yes.

21 Q When did you let Kiki know that you had made
22 the stop?

23 A And I don't know for sure. I think I did right
24 when I was making the stop, so I probably texted him at
25 some point while I -- when I saw him, I let him know, I

1 see him, I'm going to make the stop.

2 Q Okay.

3 A So I don't know exactly, but definitely prior
4 to activating red and blue emergency lights.

5 Q And it would have been -- we didn't see you
6 doing any texting in the first 30 seconds.

7 A Uh-huh.

8 Q Would you have been able to do texting while
9 you were driving?

10 A Yeah, I would, but most likely, like I'm
11 saying, I probably did it right when I saw him to let him
12 know I have eyes on him.

13 Q Okay. So --

14 A While I'm still static.

15 Q That's fine. Thanks. I just want to make sure
16 I understand the timeline. So you see Mr. Schott
17 approaching.

18 A Uh-huh.

19 Q You're still static.

20 A Uh-huh.

21 Q Is that correct? You text Kiki.

22 A (Nodding head.)

23 Q Is that correct?

24 A Yes.

25 Q Then you pull out of where you were stopped,

1 you drive your vehicle; is that correct?

2 A Yes, ma'am.

3 Q Then you turn on your lights; is that also
4 correct?

5 A Yes, ma'am.

6 Q So that's the kind of the timeline of events?

7 A Yes.

8 Q Okay. Before we get much further, help me
9 understand Kiki.

10 A Okay.

11 Q Do you know Kiki -- did you know Kiki's real
12 name?

13 A No. I believe that might be his name. I've
14 heard him called that numerous times. Again, he's just
15 the, the Fusion Center guy on that, the WhatsApp.

16 Q Sure.

17 A I don't know him.

18 Q And had you ever met Kiki before?

19 A If I had -- I may have, but I don't know. And
20 the reason I say that is I've been on so many operations,
21 when we hit those houses I'm talking about with the
22 different units, a lot of guys from -- I've been in
23 meetings where there's just tons of people talking, but I
24 don't -- like, again, me and these people aren't, we're
25 not close.

1 Q Sure.

2 A It was business.

3 Q Yeah. And you would say like that this is an
4 important conversation, right?

5 A Yes.

6 Q And you're trying to be really precise --

7 A Yes.

8 Q -- in this conversation. Is that fair?

9 A Yes. Are you talking about the conversation --

10 Q That we're having, you and I, right now.

11 A I'm trying to be, yes.

12 Q Yeah. So I'm just trying to get a sense of
13 that. So you could have met Mr. Kiki, Kiki, at some
14 point, but you can't say for certain yes or no; is that
15 correct?

16 A That is correct.

17 Q And you don't want to be making a mistake.

18 A No. Because the only thing I can tell you --
19 and the reason I'm sounding so vague is because one thing
20 I do know about Kiki when I hear him on the phone, he had
21 a very thick Hispanic accent, and his voice sounded
22 familiar to me, but I don't know if it's from a -- I
23 just -- I remember when I was talking to him thinking in
24 my head like his voice sounded familiar.

25 Q And that's okay. And like you don't --

1 essentially, if I can give you a snapshot, you don't want
2 it to come out later that you had actually met Kiki at
3 some point and then be accused of lying. Is that fair?

4 A Absolutely.

5 Q Right. And so you're just, you know, being,
6 you know, careful about your words, not committing to
7 anything because you just don't want to make a mistake.

8 MR. LEAKE: Objection, form.

9 A I do not know if I've met him.

10 Q (By Ms. Hebert) Yeah.

11 A I can't answer that question, because I
12 didn't -- what I'm saying is I haven't shaken anybody's
13 hand and said, "Hi, how are you doing? I'm Joel." "Hi,
14 how are you doing? I'm Kiki." So that's why --

15 Q No, I totally understand.

16 A -- I just recognize his voice, ma'am.

17 Q I totally understand. And so you're just --
18 you can't say yes, you can't say no, because you want to
19 be 100 percent correct.

20 A Yes, ma'am.

21 Q So do you know if Kiki was a law enforcement
22 officer?

23 A If he works at a Fusion Center, yes --

24 Q Okay.

25 A -- he should be. He's either that or Border

1 Patrol or -- if I understand correctly, because I've
2 never been in one, a Fusion Center actually consists of
3 federal and law enforcement type units. There's DEA
4 guys, Homeland Security, and it's -- from what I
5 understand, it's everybody in those buildings.

6 Q Sure. And you had never been to the Laredo
7 Fusion Center?

8 A No, ma'am.

9 Q Could the Laredo Fusion Center have private
10 individuals who work there?

11 A Possibly. Again, I don't know what the layout
12 is. I just know it's one of our bases of people that we
13 do get for missions, a lot of information from.

14 Q Sure. And you couldn't pick Mr. Kiki out in
15 like a line of people. You wouldn't know who he was if
16 there was like a lineup?

17 A No, ma'am, not off of face. Like I said, it
18 was the voice that sounds familiar when I talk to him.

19 Q Sure. And how many times would you say you had
20 spoken to Mr. Kiki? I'm going to call him Mr. Kiki
21 because I feel like that's respectful.

22 A Yeah.

23 Q But if not, let me know. How many times had
24 you spoken to Mr. Kiki?

25 A Just that day. Just that day. I don't think

1 there was any other phone calls, if I remember correctly.
2 He was just letting me know. And I think I text -- I
3 think it was a text. When I released him, I just said
4 there was nothing there. The only time I talked to him
5 was when you saw it on the video where I told him there
6 was a positive canine alert.

7 Q Sure. And I'm not entirely sure I understand.
8 How many calls have you ever had with Mr. Kiki?

9 A One.

10 Q One?

11 A The one I made in the video.

12 Q So that was the only time you had ever spoken
13 to Mr. Kiki on the phone?

14 A Yes, ma'am.

15 Q Okay. How many times have you texted with
16 Mr. Kiki?

17 A I don't have a number, but that day, there was
18 a couple of different back and forths about what I was
19 looking for.

20 Q Sure.

21 A But I don't have a number for you. Just, it's
22 2022, so I don't remember, ma'am.

23 Q That's okay. And do you know Mr. Kiki's phone
24 number?

25 A I don't.

1 Q So if you had a chat today, could you point out
2 which chat was from Mr. Kiki?

3 A Yeah, if it was anything from that day and that
4 intel, yeah, absolutely, I'd be able to see it.

5 Q But assuming it's not the stop from March 16,
6 2022, if you just had like a text chain of conversations,
7 would you be able to point to a number and say that's
8 Mr. Kiki's number?

9 A No, ma'am. No.

10 Q Okay.

11 A And I don't remember clearly if on the WhatsApp
12 he came up as Kiki or if it was a number. I just know
13 that that name is the name I've always known to be --
14 like I can't remember.

15 Q Sure.

16 A And that's -- I wish I did.

17 Q That's okay. And other than Mr. Kiki telling
18 you that he worked for the Laredo Fusion Center, did you
19 have any information about that besides his statement
20 that he worked for the Fusion Center?

21 A No, ma'am.

22 Q And do you remember when you learned that
23 Mr. Kiki worked for the Laredo Fusion Center?

24 A I don't remember when. I think we were just --
25 probably a conversation between me and Gereb. And maybe

1 Gereb was telling me -- I think he works at the Laredo
2 Fusion Center, because Gereb also was using this
3 WhatsApp. So --

4 Q Okay.

5 A -- he knew a little bit about each guy too,
6 about as much as I do. So...

7 Q So both you and Officer Gereb were using the
8 Northwest Highway group chat to get information about
9 potential stops; is that correct?

10 A Yes, ma'am.

11 Q Okay. How do you become a member of the
12 Northwest Highway interdiction chat?

13 A If I remember correctly, because again, it was
14 a long time ago, we just joined it and we got confirmed
15 by -- I think there's other people -- I don't know who
16 they are, but there are other people in Bexar County
17 Sheriff's Office on there. There's also other people.

18 Q Sure.

19 A Like every agency just about, especially from
20 Bexar County, definitely southern police units. So they
21 know us from training and things like that. And I
22 believe he confirms us that way. Other people tell --
23 they confirm each other --

24 Q Okay.

25 A -- to make sure they are law enforcement

1 officers and there aren't like -- from what I understand.
2 Again, this isn't my WhatsApp, but I know he's not
3 letting anybody onto that group.

4 Q And who's "he"?

5 A "He" being most likely -- and I think -- I
6 believe Kiki is the guy. I don't know who owns this
7 group or whose it is. I'm sure if you know -- you guys
8 probably know more than me about WhatsApp, but you can
9 see whoever is in charge of the group or who the
10 administrator is.

11 Q Okay. So somehow you can look into the
12 administrator of the Northwest Highway group, and that
13 person might have more information about who's a part of
14 it.

15 A Yeah, I think that's any WhatsApp chat group.
16 I think somebody creates it and somebody is considered, I
17 believe they call it an administrator.

18 Q Okay. So do you have to apply to be a part of
19 the Northwest Highway interdiction chat group?

20 A I really can't remember, ma'am. Most likely --
21 I'm sure I had to fill out something to confirm -- just
22 like if on Facebook or any of these other social media
23 things, even training -- like if I want to join, let's
24 say Street Cop Training, before they would accept my
25 friend request to be on Street Cop Training, I had to

1 fill out name, agency. And what they did is they would
2 confirm that you are a law enforcement officer, and then
3 put you into the law enforcement group --

4 Q Okay.

5 A -- for training.

6 Q Can I take a step back? I do not know what a
7 Fusion Center is. Can you explain to me what a Fusion
8 Center is?

9 A To the best of my ability, I can, ma'am,
10 because they do a lot of stuff. But the way I understand
11 it is a Fusion Center is people that pull intel and gain
12 intel. And what I've heard is that it actually consists
13 of federal agents, being Homeland Security, or there's
14 Border Patrol in there. And then they actually take
15 single officers -- single being one or two officers from
16 all the agencies, right down to even if -- I've heard of
17 school districts being in there, one or two officers from
18 school districts, police, deputy sheriffs. So city,
19 county. And they all work within this little center.
20 And what they do is they work and get intel.

21 And it's not only for interdiction. It's
22 for -- let's say there's a teenager who's starting to
23 show messaging or he's possibly going to be an active
24 shooter or something like that. The Fusion Centers will
25 start getting the kid's name and start pulling intel.

1 Like, Well, let's look into this kid because we've got
2 reports --

3 Q Okay. So let me just take a step back.
4 There's a physical place where a bunch of people are
5 sitting; am I understanding you correctly?

6 A Yes, ma'am.

7 Q And they're all doing what?

8 A What I just talked about, ma'am, pulling intel.

9 Q Scanning information from where?

10 A I don't know. I'm not a Fusion Center officer.

11 Q Sure, okay.

12 A But a lot of systems.

13 Q Okay.

14 A Be LPRs and many other -- whatever they have.
15 There are systems all over, especially using the Feds, to
16 be able to pull a lot of things for individuals.

17 Q Okay. So there's a room somewhere where a
18 bunch of people are together looking at data. Is that a
19 fair description?

20 A Yes.

21 Q Then they say, Hey, this data, and they flag --
22 is flagged creating a red flag, and they do something
23 with it. Is that a fair description?

24 A Yes.

25 Q Okay.

1 A It's very vague, but it's the best I can give
2 you.

3 Q It's very vague, I know, but it's the best I
4 can understand too. So sometimes if they have a flag,
5 they contact various law enforcement agencies. Is that
6 fair?

7 A Yes, ma'am.

8 Q Okay. I want to ask you kind of a follow-up
9 question. You used the term "irregular travel pattern."

10 A Yes, ma'am.

11 Q What does that term mean?

12 A So when I talk about the general motoring
13 public, irregular travel pattern would be a one-day
14 turnaround.

15 Q Okay.

16 A Again, I want to -- every time I say these
17 things I always clarify, because I need you to realize
18 that I'm not sitting here saying, Well, Alek Schott did a
19 one-day turnaround, I got myself a smuggler.

20 However, there's less than more people that
21 travel long distances and don't stay for a couple days
22 and then come back.

23 So an irregular travel pattern -- the regular
24 travel pattern would be if I'm going to Carrizo Springs
25 from Houston, usually we're going to pack a bag and hide

1 out there, and at least stay there a day, stay a night,
2 and then come back, just because it is a long ride. So I
3 just use the term "irregular travel pattern."

4 This is not a term that I've made up. This is
5 a term that flows out of my mouth because of the training
6 I've received, and it's a very commonly used term in the
7 interdiction world with your interdiction training.

8 Q Okay. So all of the things that you're saying
9 here about the one-day turnaround and relying on the
10 information from the Northwest Highway group, all of
11 those things that we just talked about, receiving the
12 intel, how you were getting the information, that's
13 consistent with how you've been trained to do criminal
14 interdiction. Is that fair?

15 A Yes, ma'am. But I want to make sure I heard
16 you correctly. Did you say lying on the --

17 Q No.

18 A What did you say? I didn't hear you.

19 Q I don't know exactly what I said, so I'll just
20 summarize again. So everything that you just talked to
21 me about, the one-day turnaround being a suspicious
22 travel pattern -- I think you heard me say travel
23 pattern.

24 A You know, I'm sorry, you might have said
25 relying.

1 Q Yes.

2 A My bad.

3 Q Yes, relying on your training. Let's just
4 summarize, the one-day travel pattern flag, was that
5 something that was consistent with your criminal
6 interdiction training?

7 A Yes.

8 Q And the relying on information from the
9 Northwest Highway interdiction group, is that something
10 that was consistent with your criminal interdiction
11 training?

12 A So when you go to the training, relying on
13 intel type groups, yes. But not -- it doesn't say
14 specifically -- I didn't go to a class and hear about
15 Northwest. It's not that. But they fall under intel
16 groups.

17 Q Right. And we already talked about the fact
18 that there were other Bexar County officers on the north
19 high west -- north highway -- Northwest Highway
20 interdiction group; is that right?

21 A Yes, ma'am.

22 Q I know that Deputy Gereb -- you mentioned
23 Deputy Gereb was part of this group; is that right?

24 A Yes, ma'am.

25 Q Do you know any other officers who were part of

1 that group?

2 A I don't know off the hand who they were, but I
3 know other officers in intel -- not intel, I'm sorry --
4 special operations. There's probably guys on there from
5 the gang units and things like that. It's not just us.

6 Q Sure.

7 A Deputy Molina and canine officers are not on
8 that.

9 Q Okay.

10 A Again, canine officers to us are nothing but
11 tools to use for our trade, craft, so they're not on
12 that.

13 Q But would it be fair to say that more -- other
14 officers besides you and officer Gereb who Sergeant
15 Gamboa supervised would be on that chat?

16 MR. LEAKE: Objection, form.

17 A That, I can't answer that.

18 Q (By Ms. Hebert) Okay.

19 A I just know that -- I just know that I heard
20 about it somewhere --

21 Q Sure.

22 A -- within the special operations group of
23 people.

24 Q I understand.

25 MS. HEBERT: I think that -- what time is it?

1 I think this is a good --

2 MR. ROWES: 12:30. Our lunch is here.

3 MS. HEBERT: I think this is a good time for a
4 lunch break.

5 THE REPORTER: We're off the record.

6 (Recess from 12:24 p.m. to 1:27 p.m.)

7 THE REPORTER: We are back on the record.

8 Q (By Ms. Hebert) Did you have a good lunch?

9 A Yes, ma'am.

10 Q Before we continue, I have to ask this
11 question.

12 A Okay.

13 Q Other than your attorney, Mr. Leake, did you
14 talk to anybody in between when we just ended and lunch,
15 the end of lunch?

16 A Yeah, I talked to my wife, and then actually,
17 Molina hit me up to say congratulations, because I got
18 married this Saturday.

19 Q Okay. And how did he hit you up to say
20 congratulations?

21 A He messaged me.

22 Q Okay. Did you talk about the substance of this
23 lawsuit at all?

24 A No, I did not talk about the substance. I did
25 tell him I'm at depo right now.

1 Q Okay.

2 A But no substance. There will be no substance
3 talked about.

4 Q And what was his response?

5 A Nothing. He actually said he was calling to
6 see how I was doing with the marriage.

7 Q Was it a call or a text?

8 A It was a text. I'll just open it up for you.
9 I said -- because he tried to call me. I said, "You
10 okay? I'm at my depo."

11 He said, "Yeah."

12 I said, "What's up?"

13 He said, "Seeing how marriage is going, and
14 just going to see how was it."

15 I said, "It was awesome, brother." Then I sent
16 him a picture of me in my nice suit and said, "I'm
17 dressed like Trump, LMAO."

18 "You look like a damn security detail."

19 I said, "We just walked to Chick-fil-A. I look
20 like it."

21 So basic conversation.

22 MR. ROWES: And he's still alive, so you did
23 your job.

24 THE WITNESS: I feel like people are looking at
25 us like we're security detail.

1 MS. HEBERT: That's pretty funny. That's
2 pretty fantastic.

3 THE WITNESS: So...

4 Q (By Ms. Hebert) Okay. Well, thank you for
5 walking through that with me.

6 A Yes, ma'am.

7 Q I really appreciate it. It's just something
8 that we have to do to make sure.

9 A I understand, ma'am.

10 Q Okay. I want to go back a little bit, and we
11 talked some about the license plate reader system.

12 MS. HEBERT: Actually, Hector, would you mind
13 closing that door? Just makes me a little apprehensive.

14 MR. LEAKE: Are you afraid that they're
15 listening?

16 MS. HEBERT: You never know.

17 Q (By Ms. Hebert) Okay. So before lunch we
18 talked a little bit about the LPR system.

19 A Yes, ma'am.

20 Q The license plate reader system. And we talked
21 about some of the information you got from Mr. Kiki,
22 which was some information that Alek Schott had had a
23 female passenger in his car --

24 A Uh-huh.

25 Q -- is that right?

1 A Yes, ma'am.

2 Q How would a license plate reader system know
3 who was in a person's car?

4 A I don't think you would unless you looked at
5 maybe a snippet. But again, he works at a Fusion Center,
6 and I don't know what else they use. I know that it's
7 not the only thing -- they have things they do there that
8 I have no clue what it is, but it's a Fusion Center. So
9 you're again, Homeland Security, DEA, everybody's there.
10 And they have a lot bigger toys than an LPR. So I'm not
11 sure how he does what he does or how they do what they
12 do. I've never worked in one. I just know that they
13 have a lot of toys over there on the federal side to do
14 all kinds of stuff.

15 Q Okay. So would it be fair to say that it was
16 your understanding that no one had been following Alek
17 Schott; is that correct?

18 A At my knowledge, yeah.

19 Q Yeah.

20 A No. Again, I don't know what they do over
21 there. A lot of the stuff Fusion Centers do is pretty
22 much top secret stuff.

23 For example, like DEA, if DEA is doing
24 something and they use an interdiction team to conduct a
25 traffic stop for a vehicle that is suspected of having a

1 load or does have a load of narcotics or whatever it is
2 we're looking for, me as an interdiction officer will not
3 be given any more information other than what they
4 possibly have, and then I have to find PC and make that
5 stop for fed, for the federal.

6 So we don't know. That's just the norm. So I
7 don't know details of what they're doing and how they're
8 doing in a Fusion Center.

9 Q Okay. So -- and I want to know more, but in
10 this particular stop, did you have any reason to believe
11 that there had been an in-person investigation of
12 Mr. Schott?

13 A No. I don't think so. I think the majority of
14 the things there are irregular travel patterns and just
15 basically looking for the, off of the reasonable
16 suspicion of the irregular travel patterns and things
17 like that. I could be wrong, because I don't work there.

18 But again, there has been a lot of human
19 smuggling cases that have been successful due to this
20 WhatsApp. This WhatsApp has saved a lot of lives. And I
21 really did believe in what I was seeing. I wouldn't just
22 jump on something and say, Man, I hope this works. I had
23 looked into what it was doing and I had heard that there
24 had been a lot of Mexican nationals saved that were being
25 smuggled --

1 Q Sure.

2 A -- and possibly trafficked later.

3 Q Sure. I just want to make sure that I
4 understand where the information about the female
5 passenger was coming from.

6 A Okay.

7 Q So did you ever see a scan or a picture of this
8 female passenger?

9 A No, ma'am.

10 Q Okay.

11 A No.

12 Q And so after you get the information --

13 A Uh-huh.

14 Q -- they just tell you word of mouth or send it
15 through the chat?

16 A Through the chat, yes, ma'am.

17 Q Do you -- then you look for PC to make the
18 stop; is that fair?

19 A Yes.

20 Q Okay. And are there specific offenses that you
21 look for?

22 A No. The -- what's the beautiful thing about
23 the Texas Traffic Code is there's thousands of things you
24 can stop a vehicle for. So no, it's not specific at all.
25 It's your knowledge as a police officer or a Deputy

1 Sheriff of knowing the Traffic Code to be able to make
2 those stops by Traffic Code.

3 Q Okay. So I'm going to start some more of the
4 video.

5 A Okay.

6 Q And I apologize, I know this is going to be a
7 little bit of a slog.

8 A Okay.

9 Q I'm going to try to -- try to make this not as
10 painful as possible.

11 A Okay.

12 Q Actually, can we take a brief break?

13 A Yes, ma'am.

14 THE REPORTER: We're off the record.

15 (Recess from 1:33 p.m. to 1:40 p.m.)

16 THE REPORTER: We're back on the record.

17 Q (By Ms. Hebert) Okay. So Mr. Babb, we're going
18 to look at your body camera footage again.

19 A Okay.

20 Q That is Exhibit -- what was exhibit --

21 MS. HEBERT: What exhibit was the body camera
22 footage, Molly? Well, we can confirm it later.

23 MR. SAENZ: 44.

24 Q (By Ms. Hebert) 44. Thank you. Exhibit 44,
25 and I am stopped at 2:30. We're going to start from

1 there. We're going to watch from 2:30 to 2:43.

2 A Okay.

3 Q It's going to replay a piece of what we've
4 already watched. Does that make sense?

5 A Yes, ma'am.

6 Q So we can just figure out where we were.

7 (Video played.)

8 Q Okay. So we just watched a clip of the
9 footage. You -- I'm just going to try to summarize here.

10 A Okay.

11 Q So if I don't get anything right, please tell
12 me.

13 A Yes, ma'am.

14 Q You just watched a portion of the footage where
15 you expressed concern about people traveling long hours
16 on the road. Alek said that he had stayed at a hotel
17 last night. You asked for his driver's license, and you
18 told him it was going to be a warning, not a ticket.

19 A Yes, ma'am.

20 Q Did I get that right?

21 A Yes, ma'am.

22 Q And is it fair that you were telling Alek that
23 you were concerned he might be a sleepy driver?

24 A Yes, ma'am.

25 Q Would it be reasonable for a person to respond

1 to that comment to say that they stayed at a hotel?

2 A Yes, ma'am.

3 Q And in general, is there anything suspicious
4 about staying at a hotel?

5 A No, ma'am. What I do want to add to this is
6 after reviewing the video, I believe I -- and I didn't
7 see -- I think in here I used a term for Alek Schott
8 talking about the hotel. I was mistaken.

9 So I believe I said "unsolicited information"
10 or something like that in here, which is a thing in
11 interdiction. And in my head I was thinking it, but when
12 I reviewed the video again, that's unfair, because I
13 actually said to him "sleepy drivers" and talked about my
14 concern, which then he told me he slept in a hotel. So
15 that was not unsolicited. I absolutely solicited that.
16 So that was a mistake on my part.

17 Q Sure.

18 A And I do want to clarify that, because I didn't
19 realize it. Because unsolicited information, an example
20 of that would be, "Hi, I'm Joel with Bexar County
21 Sheriff's Office. The reason I'm stopping you is this.
22 Can I have your driver's license?" And then is, "Oh,
23 well, I'm traveling to my sick aunt, and I had just
24 stayed at a hotel last night" and this and that, and they
25 basically tell you everything that they're doing without

1 me asking.

2 Q Sure.

3 A So I mistakened it for that, and that's not
4 what that was.

5 Q Sure. So I just want to make sure that I
6 understand. It was reasonable for Alek to respond to
7 your comment about concern about a sleepy driver by
8 saying he slept at a hotel the night before.

9 A Yes, ma'am.

10 Q Why did you tell Alek that it was going to be a
11 warning rather than a ticket?

12 A So that is something that I do and that I got
13 from my training. The reason we do that, once again,
14 this is part of that rapport building. One of the
15 biggest things, and I'm sure you've been stopped
16 yourself, ma'am, but if you get stopped by a --

17 Q How do you know that?

18 A I imagine. I've been stopped, so the average
19 person has been stopped at least once.

20 Q Okay.

21 A But our biggest concern at a traffic stop is am
22 I getting a ticket.

23 Q Sure.

24 A So again, my goal in interdiction is to have
25 them relax and be calm and not stressed out about

1 anything. So part of that process is I let them know
2 right up front you are not getting a ticket today, you
3 will be getting a warning. But again, it's still going
4 to be a typed up piece of paper that looks like a ticket
5 due to the Brazos ticket writing system, and of course,
6 the Sandra Bland Act requiring me to give him something
7 on paper.

8 Q Okay. So would it be fair to say that
9 everything you're doing, the conversation that you're
10 having here is consistent with your training?

11 A Yes.

12 Q At this point, other than the alleged drifting,
13 was there anything that you observed that made you think
14 that a crime had been committed or was being committed?

15 MR. LEAKE: Objection, form.

16 A No. The only thing is what I talked about
17 before. So up to this point -- I can't remember, I don't
18 think I've asked him yet about a weapon. However, up to
19 this point, what I had seen now is hands up in the air,
20 and one thing I observed also -- and it could be for many
21 other reasons, but again, as I'm grouping what I'm
22 calling my reasonable suspicion, he was breathing hard.
23 His chest was rising and falling. More so than the
24 average person.

25 And of course, it's a traffic stop, and he's

1 nervous possibly. So what I'm trying to do again by
2 telling him "I'm giving you a warning, not a ticket," is
3 I'm also observing his breathing. Because if that's what
4 he's nervous about, maybe when I tell him he's getting a
5 warning, because if he's not involved in any criminal
6 activity, the norm would be that at this point I would
7 notice the breathing go to normal.

8 He was still kind of rising and falling to a
9 point just different from what I'm used to seeing. So
10 hands up, rise and fall of a chest is where we're at
11 right now. I don't think he's giving me the driver's
12 license yet.

13 Q (By Ms. Hebert) Okay. Had you ever met
14 Mr. Schott before?

15 A No, I have not, ma'am.

16 Q Okay. So before the traffic stop of Mr. Schott
17 on March 16, 2022, you had never met him before?

18 A No, ma'am.

19 Q And when you pull people over, would you say
20 that -- what would you say are the normal reactions?
21 When you pull someone over, what are the normal
22 reactions?

23 A Normal reaction if I was to put -- again,
24 everybody's different. But there is a pretty good
25 percentage of what a normal motoring public looks like.

1 As I said earlier, it's going to be usually people roll
2 down both windows, hands on the steering wheel. Hands on
3 the steering wheel is pretty common. They want me to see
4 their hands.

5 In my experience, this here, and in my training
6 also, is sometimes a factor. I have arrested a lot of
7 people that, one of the things I saw on them was when I
8 walked up to the car is hands up. Like they haven't --
9 like they're innocent, I didn't do anything, my hands are
10 up.

11 So I'm not saying again all by itself Alek
12 Schott doing that, I was saying he's a smuggler at this
13 point. But again, it's just one of the small things that
14 I grouped in as we're building here throughout this stop.

15 Q Okay. But you also agree that everyone is
16 different; is that fair?

17 A Yes, ma'am.

18 Q And so have you ever had someone cry when you
19 pull them over?

20 A Yes, ma'am.

21 Q Okay. And would it be fair to say that it
22 might take people several minutes to recover from being
23 pulled over?

24 A Yes. I've had people actually have anxiety
25 during a traffic stop, where I had to relax them and calm

1 them down to make them see. So yes, I'm aware of that.

2 Q Okay. And so what does that look like? You
3 just talked about an example or examples where someone
4 had anxiety when you pulled them over.

5 A Uh-huh.

6 Q What did you do?

7 A I just told her everything's going to be okay,
8 explained to her why I stopped her. And we went from
9 there and just -- she became relaxed. Again, I just --
10 again, people are expecting sometimes officers to come up
11 and be a certain way. So again, I just explained to her
12 what was going on.

13 That one actually got a ticket, if I remember
14 correctly. But she calmed down, because I explained to
15 her, it's not -- I don't know what -- she was just very
16 tense, and anxiety.

17 Q Okay. I'm going to watch from -- play from
18 2:43 to 3:05.

19 A Okay.

20 (Video played.)

21 Q Okay. So we just watched from 2:43 to 3:05.

22 A Uh-huh.

23 Q I'm going to try to break down what happened.
24 So if I miss anything --

25 A Okay.

1 Q -- or if there's anything you want to focus on,
2 we can chat about it. But during this portion of the
3 video we just watched, you asked Alek if he had any
4 firearms in the vehicle; is that correct?

5 A Yes, ma'am.

6 Q And it's a little hard to hear. But I think I
7 heard Alek say something along the lines of "I don't
8 think so. There shouldn't be." Did I get that right?

9 A Yes, ma'am.

10 Q Okay. And at this point, you hadn't ordered
11 Alek out of the vehicle. We didn't see you order Alek
12 out of the vehicle; is that right?

13 A No.

14 Q Okay. And I think you've already said this
15 before, but I'm just going to ask it, did that response
16 from Alek raise a red flag for you?

17 A Absolutely.

18 Q Why?

19 A Because it is not a -- this is not the norm for
20 anybody who's got a firearm in their vehicle to not know
21 if they have one or not. So with that, that is -- at
22 this point, I've already -- now I've decided I'm not
23 saying he's a smuggler, but he's definitely going to be
24 coming out of the vehicle and we're definitely going to
25 be conducting a Terry frisk. Because him not knowing if

1 he has a gun means he may be armed and dangerous for that
2 Terry frisk.

3 Q Okay. But I guess, you know, from, reviewing
4 it from the perspective of an innocent person, could they
5 really just want to be precise, not know if there was a
6 gun in the vehicle or not?

7 MR. LEAKE: Objection, form.

8 A In my training, and especially my experience of
9 talking to hundreds of people, almost everybody that has
10 a gun will tell you, "Yes, I have a firearm in the
11 vehicle." It is a -- it is a concern if we're not sure.

12 Q (By Ms. Hebert) Okay.

13 A And that's whether I think he's a smuggler,
14 whether I think -- if you're anybody, if you're unsure,
15 I'm going to feel safer to have you step out of the
16 vehicle. What I'm not going to be doing is putting my
17 back to you walking back to my vehicle, conducting the
18 warning while this person that doesn't know if they have
19 a gun is sitting in the vehicle where I can't see
20 anything that's going on in the vehicle.

21 Q Sure. Would it be fair to say that it's
22 important to tell the police the truth?

23 A Yes, ma'am.

24 Q Okay. And if you had later discovered a gun in
25 the vehicle, would you think that Alek had lied to you?

1 A No.

2 Q Okay. If he had said, "No, there's no gun in
3 the vehicle," and you later discovered a gun in the
4 vehicle, would you think that Alek had lied to you?

5 A Using the verbiage he used?

6 Q No. If Alek had said, "No, I don't have a gun
7 in the vehicle" --

8 A Uh-huh.

9 Q -- and you later discovered a gun in the
10 vehicle, would you think that Alek had lied?

11 A Yes, that would be a lie.

12 Q Okay.

13 A I want to add to that, but that would not be a
14 charge and that would not be something I would arrest him
15 for.

16 Q Sure.

17 A It would just be a sign of dishonesty.

18 Q Sure.

19 A That's it.

20 Q And it seems like we also heard Alek say, "I'm
21 really sorry about that." Is that right?

22 A Uh-huh.

23 Q Do you understand Alek's apology to mean that
24 he was admitting that he drifted?

25 MR. LEAKE: Objection, form.

1 A I can't speak for what he's thinking.

2 Q (By Ms. Hebert) Sure.

3 A But I'm trying to -- I'm not really sure what
4 else he would be saying I'm sorry for. If anybody was
5 watching this video, I would feel that they would think
6 that's what he's talking about, unless he's apologizing
7 for not knowing if there's a gun in the vehicle.

8 I don't know what he was thinking at that time.
9 But for me at that moment when I'm listening and
10 everything else we're talking about, to me that was him
11 just him kind of saying "I'm sorry about that" to I guess
12 the violation I had told him.

13 Q Okay. So you didn't understand -- scratch
14 that.

15 A So I understand it, ma'am, I just want to put
16 that in there, so I believe that he was apologizing for
17 what I stopped him for. Why -- again, that's the way I
18 perceived it, standing here on the side of the vehicle --

19 Q Sure.

20 A -- talking to him, ma'am.

21 Q Did anyone -- did Alek ever say anything like,
22 "Yeah, you're right, I drifted over the fog line"?

23 A No, ma'am.

24 Q Did Alek ever give you the direct impression
25 that he was admitting, "Yes, I drifted over the fog

1 line"?

2 A So I wasn't even thinking like that, ma'am,
3 because there was no question in my mind of the violation
4 I stopped him for. I let him know I was going to be
5 giving him a warning.

6 Q Uh-huh.

7 A I was not in any type of defensive way with
8 him. I was just telling him, informing him as I'm
9 supposed to, and observing what I'm seeing and taking the
10 next action off of what I'm hearing and seeing.

11 Q Okay. So up to this point, had you seen
12 anything that led you to conclude that a crime other than
13 the alleged drifting had been committed?

14 A No. I just have more behaviors where he handed
15 me -- at this point I think he handed me the driver's
16 license.

17 Q Uh-huh.

18 A When he was giving me the driver's license, I
19 could see that his hand was trembling.

20 Q Okay.

21 A Again, that by itself is not enough, but now
22 we're working on, if I go down a list, hands up in the
23 air, heavy breathing, trembling hands, unsure of a weapon
24 in the vehicle. So I'm building to this point where
25 we're going to be coming out of the car now and we're

1 going to -- I'm going to do the warning and we're going
2 to talk a little bit while I'm doing the warning at the
3 same time, actively working but still talking. But at
4 this point, I do have a grouping that is going to lead me
5 to want to go a little further and talk to him some more.

6 Q Sure.

7 A If I was to break it down.

8 Q What crime did you suspect Alek of?

9 A I -- what I -- off of the tandem and the stuff
10 that was reported, possibly human smuggling, because we
11 were heading south, to possibly either -- sometimes it
12 can be picking up a person, which he wasn't doing. At
13 this point he was dropping off, or maybe even being a,
14 what's called a scout. They -- in the human smuggling
15 world, they send scouts out to clear routes, meaning you
16 go down, and then you drive the route, and behind you is
17 the actual smuggler, in the trade craft of human
18 smuggling.

19 This, of course, comes from my training of
20 learning the trade craft of smuggling. But they do the
21 same process for narcotics trafficking and smuggling.

22 Q Sure. I guess like perhaps I wasn't clear.
23 With the hands up, the breathing, the trembling hands,
24 the unsure if there's a gun in the vehicle, what crime
25 did you think that those things led you to believe that

1 Mr. Schott had committed?

2 MR. LEAKE: Objection, form.

3 A So what I have here is, again, this is
4 reasonable suspicion. Alls I have right now is
5 behaviors --

6 Q (By Ms. Hebert) Sure.

7 A -- of a man who's been told that he's getting a
8 warning, of a man who's had a cop talking to him, calling
9 himself by his first name and talking the way I speak to
10 him, and he's extremely nervous. So I have no crime, but
11 I have the idea of this is not the norm of traffic stops
12 I've done, so this is the reasonable suspicion that's
13 leading me to go to the next step of this traffic stop.

14 I don't have a specific crime. I'm looking for
15 smuggling. But these behaviors can be behaviors attached
16 to any type of crime, not just smuggling.

17 Q Sure. And I also want to be clear, you
18 mentioned the tandem information, but you didn't --
19 earlier today you talked about the tandem information
20 coming from the phone call; is that correct?

21 A Yes, ma'am.

22 Q Okay. So at this point, you hadn't had the
23 phone call from Kiki yet.

24 A No.

25 Q And at this point, you didn't know about the

1 tandem driving; is that fair?

2 A Yes.

3 Q So right now you're basing the decision to ask
4 Mr. Schott to step out of the vehicle based on hands,
5 breathing -- hands in the air, breathing, trembling hands
6 and unsure about a gun; is that correct?

7 A So the number one reason --

8 MR. LEAKE: Objection, form.

9 A -- I'm having him step out of the vehicle is
10 the gun, not knowing if he has a gun. Safety-wise, I'm
11 having him step out to conduct a Terry frisk.

12 Q (By Ms. Hebert) Okay.

13 A And once I have somebody step out of a vehicle,
14 the golden rule here is you don't let them get back into
15 the vehicle, because that's dangerous also.

16 Q Sure.

17 A So the safer thing to do is either bring him to
18 the back, so if a car veers, it's not going to hit him or
19 me, or into the vehicle.

20 Q So if Mr. Schott had not said -- he was unsure
21 about a gun being in the vehicle, you would not have
22 asked him to step out of the vehicle?

23 A So no, I would have -- I would have asked him
24 to step out of the vehicle. That is just one piece of
25 the couple things we're looking at. The behaviors we

1 talked about, being hands in the air, heavy breathing,
2 trembling hands, after I told him he was getting a
3 warning, those are enough for me to still want to, while
4 I'm doing the warning, kind of have discussion with him.

5 Q Okay. So all four of these things are what
6 conclude -- made you conclude you needed to have him step
7 out of the vehicle.

8 MR. LEAKE: Objection.

9 Q (By Ms. Hebert) I'm just making sure I
10 understand.

11 MR. LEAKE: Objection, form.

12 A Up to this point, yes. We're working -- again,
13 I have no crime. I have no -- like I'm not saying he's a
14 smuggler. I'm not saying -- but it is behaviors that
15 make me want to go a little deeper. I'm still not going
16 to extend the stop. I'm still going to be working a
17 warning while I'm talking to him at this point.

18 Q (By Ms. Hebert) Sure. During your career,
19 would it be fair to say that you've pulled over more than
20 a hundred people?

21 A Yeah, definitely over a hundred.

22 Q And have you ever seen someone's hands tremble
23 before when they handed you a license?

24 A Yes, ma'am.

25 Q And would you agree that trembling hands or

1 nervous energy could be a normal innocent reaction?

2 A Yes, ma'am.

3 Q Okay. All right. I'm going to -- did we
4 already play this? Okay. We can play back just a little
5 bit. Let's go back a couple of seconds. We're going to
6 start at 2:57 and play till 3:05.

7 A Okay.

8 (Video played.)

9 Q Okay. I heard you say at approximately the
10 three-minute mark, "I'm going to have you step out and
11 sit in my passenger's seat while I do your warning.
12 Okay?"

13 A Yes.

14 Q Did you say that?

15 A Yes, ma'am.

16 Q And you didn't ask Alek, "Would you like to
17 step out of the vehicle," did you?

18 A I would not ask him if he would like to. At
19 this point, I would be polite about it, but he's going to
20 step out of the vehicle at this point because of the way
21 he answered the gun question. This is going to lead to
22 the Terry frisk.

23 Q Sure.

24 A But I'm going to need him to step out at this
25 point. Not so much sit in the car, but definitely he's

1 going to step out of the vehicle because of the answer I
2 got for the gun.

3 Q And would it be fair to say then that Alek did
4 not have a right to refuse to step out of the vehicle?

5 A I would not have given him an option as far as
6 stepping out because of that answer to my question about
7 the gun.

8 Q Sure. When you were working as a criminal
9 interdiction officer, on a given day, you said you did a
10 lot of traffic stops.

11 A Yes, ma'am.

12 Q How many folks would have you sit -- would you
13 have sit in your passenger seat?

14 A A good number of them. A lot of people would
15 sit in the passenger's seat. Some I would tell them, due
16 to safety, have them come out, and others it was just
17 having them come out and do it.

18 Q Would you say that most of the traffic stops
19 you did you would have the person sit in your passenger
20 seat?

21 A Yes.

22 Q Okay.

23 A It's all consensual, but yes.

24 Q So when you ordered Alek to sit in your
25 passenger seat, you were doing something you've done

1 hundreds of times; is that fair?

2 A Yes. But you used the word "ordered." Now, I
3 may not have, as you said, asked him.

4 Q Sure.

5 A But again, the way I'm carrying myself and the
6 way I'm talking to him, if he was to say, "I don't want
7 to sit in the passenger's seat," I would say, "Okay, you
8 can stand outside."

9 So people have rights. People know their
10 rights. And I'd like to believe that. I am in no way, I
11 don't think -- and I hope this isn't opinion, but I feel
12 like I am not intimidating him. I don't feel like I'm
13 talking to him in any direct way, or I'm not handing him,
14 telling him you're going to get in my car and -- I
15 believe I'm carrying myself in a way, which I kind of
16 take pride, and what I do is I try to contain myself in a
17 way where I'm not intimidating.

18 I can't speak for that ugly mustache. However,
19 I will say that the way I talk, as you can see, is
20 very -- it's very laid back, and I'm doing that for that
21 reason.

22 Q Sure.

23 A I'm not trying to make this man feel like he
24 has to do anything. But yes, if it came down to it, if
25 he would say, "I don't want to get out of my vehicle,"

1 the way I would go about that is explaining to him, "Sir,
2 because you're not sure if you have a vehicle -- a
3 weapon, I need you to step out," and I'm going to do a
4 pat down, so...

5 Q Okay. So would it be fair to say that the pat
6 down was nonconsensual then?

7 MR. LEAKE: Objection, form.

8 A So the reason it was consensual, I didn't -- I
9 didn't have to ask him for consent. But my thing is
10 because of what I'm doing here and how I treat people, I
11 still asked him for permission to do a pat down.

12 Q (By Ms. Hebert) Okay.

13 A But by law, and by Terry versus Ohio, due to
14 the fact he doesn't know if he has a weapon and I'm
15 worried that he may be armed and dangerous, I need -- I
16 don't have to ask him. I just do because I try to keep
17 that good relationship between me and the person.

18 Q Okay. When you -- I'm just going to say told
19 them -- when you told Alek that you were going to have
20 him come sit in your --

21 A Okay.

22 Q -- patrol car, did you give him any kind of
23 warning, "You don't have to do this if you don't want
24 to"?

25 A No, I didn't specifically say that.

1 Q So did you tell him that he had the right to
2 refuse to get in your patrol car?

3 A No, I didn't tell him that either.

4 Q Okay. Did anyone at the Sheriff's Office ever
5 suggest that you should not have someone come sit in your
6 passenger seat of your patrol car?

7 A I have had people tell me that, and the people
8 that told me that, ma'am, were people that only had
9 academy training and whoever their PTO was. So what I
10 would always explain to them is case law, Supreme Court
11 case law and the numerous classes I've been to, that
12 teaches this style of traffic stop. That shows in each
13 class videos of numerous other officers doing front seat
14 interviews.

15 I want to make it clear to you, ma'am, again,
16 that nothing I'm doing is being pulled out of -- it's not
17 from the hip.

18 Q I understand.

19 A Yeah.

20 Q And I didn't understand some of the beginning
21 of that answer, so I'm going to ask you to break that
22 down for me.

23 A Okay.

24 Q You said something like told other people, PTO.
25 I didn't --

1 A Oh, I'm sorry.

2 Q -- follow what that was. I'm sorry.

3 A So the people -- and I don't know names, but
4 there's been people that don't recognize this, it seems
5 foreign to them to do a front seat style traffic stop,
6 have said, "I don't know, you shouldn't do that." And
7 I've explained that the people that say that to me are
8 people that the only training they've had is our academy
9 training, meaning they did however many weeks to become a
10 patrolman, then a PTO is a patrol training officer.

11 So what this consists of is I identify a guy
12 you would hope has done this job for a long time, but in
13 some cases, that's not it at all, fairly new officers
14 because they need people. The guy that trained them to
15 be in the streets told them this is what we've always
16 done, this is how I did it, and here's how you're going
17 to do it.

18 Again, not many PTOs are out there, which is
19 another reason I went to the academy, teaching them, Hey,
20 this is how I want you to do this because case law says
21 you can do this.

22 It's always been, This is what I've always done
23 and this is the way we've always done it.

24 So they're under the impression that what I'm
25 doing is wrong, because let's say Carl, their PTO, told

1 him that this is how we've always done it and this is
2 foreign.

3 What I will tell you, ma'am, is that the front
4 seat thing there's a couple of different reasons. And
5 I'm trying not to get long-winded, but I'm kind of
6 passionate about this. Fight/flight/freeze, what people
7 do. By having a person get inside your passenger
8 vehicle, you do a consensual pat down. You pat them
9 down. You've now cleared them of weapons. You don't
10 have to worry about them having a weapon.

11 They sit in the passenger seat. So now --
12 let's say he goes with flight and decides I don't want to
13 be here, I'm going to run. Well, that's great, because
14 now he's inside the passenger seat. If he runs, he's
15 going to be running on foot rather than in a vehicle
16 pursuit going 100 miles an hour putting the community at
17 risk. So I feel more comfortable with that.

18 And with the fight, putting him inside the
19 vehicle, if something like that happens, there's a big
20 computer and a big obstacle between us.

21 So there's so many different reasons that, with
22 the training that comes with this type of traffic stop of
23 why we're doing what we're doing. And again, none of
24 these things that I'm telling you about is me making
25 stuff up. It's all coming from the training I've

1 received from numerous training platforms.

2 Q Okay. So you just talked a little bit about
3 fight, flight and freeze. Did I get that right?

4 A Yes, ma'am.

5 Q And so are those, are those reactions that --
6 I'm trying to figure out how to ask this. Those seem to
7 be like high stress reactions. Is that a fair
8 characterization of fight, flight and freeze?

9 A Yeah. It is a behavior that sometimes people
10 will have. If somebody is committing a crime or
11 somebody's in the midst of committing a crime, let's say
12 during a traffic stop, and the worst case scenario for a
13 person committing a crime that's in a car is being
14 stopped, I as an officer who's running criminal
15 interdiction understands that this traffic stop is going
16 to be the most stressful thing that they didn't want to
17 happen.

18 So fight/flight/freeze is usually the body's
19 reaction to that kind of stress. And I'm trying to do
20 things to avoid anything being worse than it needs to be
21 if that does happen.

22 Q Okay. And so when you get someone, someone --
23 you've pulled them over, you've asked them or told them
24 to get into your patrol car. They're in your patrol car.

25 A Uh-huh.

1 Q Are you looking for fight, flight or freeze in
2 their reactions?

3 A No, ma'am. I'm just giving you as like a, of a
4 worst case scenario situation of why it is a good idea to
5 do this. I'm not looking for that.

6 Q Sure, sure.

7 A I'm not --

8 Q I just wanted to understand.

9 A I want to make -- the last thing I'm looking
10 for is a fight.

11 Q And the flight piece, does that mean once
12 they're in the patrol car, they couldn't leave the patrol
13 car?

14 A No, they can. What I'm saying is if they
15 decide to run from me, I would much rather have a man
16 open my door and run on foot rather than step on the gas
17 and go 100 miles an hour down a public roadway.

18 Q Okay. You talked a little bit about the front
19 seat tactics and folks coming out of the academy and
20 their patrol training officer.

21 A Uh-huh.

22 Q Did you teach front seat training -- tactics at
23 all at the academy when you were an instructor?

24 A Absolutely not.

25 Q Did anyone ever ask you about it when you were

1 an instructor at the academy?

2 A Yes. I actually, in the patrol academy, I
3 would explain to officers that were going, new to patrol,
4 what criminal interdiction is and what I was doing. And
5 I would actually explain to them, because I would use
6 videos to show them behavioral stuff for, behavioral
7 analysis of signs of deception, things like that.

8 But I would explain to them that once you have
9 training and you are in that type of special unit, then
10 that is something that can be done. But I would always
11 tell them that you will not as a patrolman do these types
12 of trainings without the training -- or these types of
13 stops without the proper training for it.

14 Q Okay. So would it be fair to say that you
15 expose people to front seat tactics and behavioral
16 analysis but told them that it was a specialized
17 activity?

18 A Yes, ma'am. I also told them about different
19 training platforms that I've been to, and a lot of these
20 students were already on certain training platforms that
21 show every day videos of officers doing front seat --

22 Q Sure.

23 A -- tactics or interviews, or whatever you want
24 to call it. In the training it's called different
25 things, but --

1 Q And when you said you used videos in the -- at
2 the training academy, what videos did you use?

3 A The only videos I've used is there's like a
4 couple that I had that were traffic stop videos showing
5 just behaviors of people, of cases that were closed, or
6 just stops of people being released.

7 Q And when you say "traffic stop videos," were
8 these your traffic stop videos?

9 A Some were mine, some were other people's in the
10 agency. There's access to training videos of other
11 officers also when you're working in the academy, to use
12 them for training. If you go to interdiction training,
13 usually the instructor, all the videos you're watching in
14 the class are his traffic stop videos from his stops, as
15 he explains what's happening in the stop.

16 Q Okay. Just to make sure I understand that, so
17 when you go to like a training from some other person,
18 they're using usually their traffic stop videos; is that
19 what I'm understanding correctly?

20 A Yes, ma'am.

21 Q And you were doing the same thing, you were
22 using your traffic stop videos to explain --

23 A We used mine, we used other people's, yeah,
24 there's stuff on the training file of videos that they
25 used for certain training classes.

1 Q Okay. Thanks. Okay. So I'm going to play
2 another piece. I'm just going to go back, just because
3 it's a long time since we talked a little bit about it.

4 A Okay.

5 Q So go back to 2:56, and we'll play to 3:05
6 again. Sorry.

7 (Video played.)

8 Q Okay. And this is the part where you had said
9 "I'm going to step out and" -- "have you step out and sit
10 in my passenger's seat while I do your warning"; is that
11 right?

12 A Yes, ma'am.

13 Q And do you remember when I asked you to note
14 the time stamp earlier today? It was a while ago, it was
15 before lunch, so bear with me.

16 A Uh-huh.

17 Q It was 2:13 when you stopped your vehicle, on
18 the bottom here, 2:13.

19 A Okay.

20 Q When you got out of your vehicle. Do you
21 remember that?

22 A Yes, ma'am.

23 Q So approximately 45 seconds have, have passed
24 here from when you approached the vehicle to when you
25 ordered him out. And would you say at this point you

1 were investigating Alek Schott?

2 A I mean, every -- I am investigating him because
3 I'm monitoring what he's doing and saying as I'm going
4 through a normal traffic stop. So I don't -- I'm not
5 taking any extra time from the actual traffic stop at
6 this point because alls I'm doing is observing. But a
7 police officer or a Deputy Sheriff, in everything they're
8 doing, that's kind of a word you want to use because
9 they're always observing. You should always be watching,
10 looking for cues.

11 So in the definition of the word
12 "investigation," yes, but not in a way that at this point
13 I'm taking away from what's already going to happen,
14 which is the production of a warning and sending him on
15 his way if everything is good to go.

16 Q Okay.

17 A But due to the behaviors, yes, we are -- I am
18 still observing and I am still taking in what he's saying
19 and doing.

20 Q Okay. So at this point you would say you were
21 investigating Alek Schott is what I understood you to
22 say. What particular crime were you investigating
23 Mr. Schott for?

24 MR. LEAKE: Objection, form.

25 A So no specific crime. Again, I'm just seeing

1 behaviors that are intriguing me to think that possibly
2 he's up to something. I don't know what he's up to. I
3 don't know what crime at this point. At no point do I
4 know what crime he's committing until as we move forward.
5 The only time it was a point where I was actually, okay,
6 at this time I am looking for this specific crime,
7 because, of course, once a dog sat to the smell of some
8 sort of narcotic, at that point, okay, now we can get
9 specific. But at no time before that can I be specific
10 with you about the crime he's committing, ma'am.

11 Q (By Ms. Hebert) Okay. Thank you.

12 A Yes, ma'am.

13 Q So I'm going to watch from 3:05 to -- 3:05 to
14 3:14.

15 A Okay.

16 (Video played.)

17 Q Okay. I heard you say "secure."

18 A Yes, ma'am.

19 Q Is that right? Was that what you said?

20 A Yes, ma'am.

21 Q Why did you say "secure"?

22 A We have to do that because we have a dispatcher
23 listening. And actually throughout the stop, the
24 dispatcher will say, "What is your status?" They're
25 saying that because if they haven't heard from you for a

1 while, then they -- they have a little timer or
2 something. So by me letting them know I'm secure, that
3 actually resets the timer, and I don't have to worry
4 about hearing them in my ear while I'm talking --

5 Q Okay.

6 A -- saying, "What is your status?" So yeah.
7 And that's just everyday, regular police stuff. Every
8 officer does that when you're on a traffic stop or even
9 on a call for service. You continuously let them know,
10 "I'm secure."

11 Q Okay. So when you make a traffic stop, what's
12 the first point that you're supposed to radio "secure"?

13 A I do it -- there's no set time. I don't know
14 what their timer is. But for me a rule of thumb is once
15 I make that first contact and receive driver's license,
16 I'll say, "I'm secure," which is pretty much where I did
17 it here.

18 Q Okay. Going to watch from 3:14 to 3:20.

19 A Okay.

20 (Video played.)

21 Q I went the 3:22.

22 A Okay.

23 Q Excuse me. Sorry. What I saw and heard in
24 that portion of the video, just to make sure that we're
25 all on the same page --

1 A Uh-huh.

2 Q -- you approached Mr. Schott and said, "Would
3 you mind if I give you a quick pat down?"

4 A Uh-huh.

5 Q And then you gave Alek a pat down; is that
6 right?

7 A A quick pat down, yes, ma'am, very quick.

8 Q And then the next thing I heard you say was,
9 "Please have a seat next to me."

10 A Uh-huh.

11 Q Did I get that right?

12 A Yes, ma'am.

13 Q Okay. And did Alek in fact have a seat next to
14 you?

15 A Yes, ma'am. One thing -- I'm sorry, one thing
16 I think you didn't hear, because I didn't hear it, but
17 that did happen was when I asked him if I could give him
18 a quick pat down, Alek Schott said "yes" or "okay" or
19 something of that nature. He verbally said something.
20 He just speaks very quiet. He did agree to a consensual
21 pat down. But again, I just want to remind you that I in
22 no way needed to ask for consent. I just did it to be
23 polite, I guess you could say.

24 Q Okay. So I'm going to continue on --

25 A Okay.

1 Q -- to 3:27.

2 (Video played.)

3 Q Okay. Now, you're getting into the patrol car
4 here and Alek's getting in your patrol car. Is that
5 fair?

6 A Yes, ma'am.

7 Q And at this point, as you're getting into the
8 patrol car, did you give Alek any warning about getting
9 into the patrol car? By that I mean, just to clarify,
10 did you give Alek any warning about his right to leave
11 the patrol car?

12 A No, ma'am.

13 Q Did you give Alek any warning about any
14 questions you were going to ask in the patrol car, his
15 right to refuse to answer those questions?

16 A No, ma'am.

17 Q We're going to watch till 3:35.

18 A Okay.

19 (Video played.)

20 Q And what we just saw right there, you and Alek
21 are now in the patrol car. And it seems as you were
22 getting in, you took your body camera off and placed it
23 in the corner of your patrol car. Is that what happened?

24 A Yes, ma'am. So what I have is a magnet system
25 that I put on the dashboard. Due to my training, a lot

1 of the interdiction officers that do the training, they
2 do this with their body cam. Now, this is not something
3 I'm obligated to do.

4 What I enjoy about doing this is I'm letting
5 you -- and it's great, because here we are today with
6 this thing going on, now I'm giving you the opportunity
7 to see everything that's going on in that vehicle. When
8 a normal police officer has a traffic stop, as I'm sure
9 you've seen in some videos, when they have this thing
10 here, alls you do is hear what they're saying and you
11 don't see anything that's going on.

12 I do this so that I can give the opportunity
13 for audiences to see what's happening in the car,
14 especially because a lot of my criminal interdiction and
15 reasonable suspicion falls around behavioral analysis and
16 behaviors.

17 I am able to talk about behaviors that I saw
18 and heard, and use, doing this with my body camera, I'm
19 able to show the world or whoever's seeing it, be a
20 lawsuit or my sergeants or whoever, Sergeant Gamboa, to
21 see that I'm writing stuff that's actually happening in
22 front of the camera.

23 Q Okay.

24 A But this is not in any way a Bexar County
25 Sheriff's Office policy. Bexar County Sheriff's Office

1 is okay with you having a camera on your body, and
2 there's no front seat inside cameras of any kind in our
3 videos, other than the ones that face outside.

4 Q I understand. So I just want to break that
5 down a little bit. You and -- you talked about a magnet
6 system.

7 A Yes.

8 Q Did you install that magnet system yourself?

9 A The word "install" is a pretty nice word
10 because it makes it sound technical. I have a little
11 thing with a suction cup that I bought at like CVS.

12 Q So did you place the magnet system?

13 A Yes, I suction cupped that to the dash there in
14 front of us, and then I just take the metal backing of my
15 camera and stick it to it.

16 Q Okay.

17 A Simple stuff.

18 Q Got it. Did anybody from the Sheriff's Office
19 ever tell you not to do that?

20 A No. Even on patrol, I think the sergeants
21 enjoyed it, because again, I'm giving them a straight up
22 vantage point of seeing exactly what I'm doing.

23 This is my way of -- funny as it is, this is my
24 way of putting everything on camera and being as
25 transparent as possible so that I don't ever get in

1 trouble.

2 Q Understand. And so I guess by implication,
3 you -- it's fair to say you've done this, you've taken
4 your body camera off and put it on your magnet system,
5 suction cup, many times before?

6 A Yes.

7 Q And many times after this stop with Alek
8 Schott?

9 A Yes.

10 Q Where did you learn to do that?

11 A Every interdiction class I've been to, all of
12 them show a camera system in the -- inside the vehicle.
13 Some agencies have more money than our agency and
14 actually have nice camera systems that are actually, that
15 you can turn it. So we don't have that. So I can't
16 think of it off the top of my head, but there's at least
17 three other ones where that's what they're doing.
18 They're taking it off their chest and sticking it to
19 whatever they're using to put the camera up facing in.

20 Q Can you state -- and I didn't understand that.
21 I'm sorry. The other what?

22 A Training platforms.

23 Q Oh, okay.

24 A Different companies that I've gone and got
25 interdiction training.

1 Q Okay.

2 A If you look into like -- and I'm sure y'all
3 have my 201 file of all my training. If you do some
4 research on that training, you are going to see exactly
5 what you're looking at here on almost every single one of
6 those training platforms.

7 Q When you say "training platforms," help me --
8 like I'm not familiar with that world. So tell me, what
9 are you talking about?

10 A The company that's teaching.

11 Q Okay.

12 A So you have 720 Interdiction. Different
13 classes within Street Cop Training. You have Desert
14 Snow. You have Hicks. You have -- there's just so many
15 of them.

16 Q Okay.

17 A So --

18 Q So the three platforms you were talking about
19 when you just talked about the three others, were you
20 talking about then 720, Street Cop and Desert Snow? Were
21 those the three that you were referring to?

22 A No. I was just giving examples. Off the top
23 of my head, because it's been a while, I don't know which
24 ones, but just I remember seeing in some of the training
25 that I've done where they just use their body cam.

1 Q Okay.

2 A Because not everybody has internal camera
3 systems that film the seating inside the vehicle.

4 Q Sure. I understand. I want to ask about one
5 thing on the screen here, and you're going to have to
6 bear with me because it's like mirror images.

7 A Okay.

8 Q So I'm just going to turn around.

9 A Okay.

10 Q On the dashboard, right in front of Alek --

11 A Yes, ma'am.

12 Q -- they look like round circles. What are
13 those things?

14 A Those are stickers.

15 Q Okay. And can you tell me more about these
16 stickers?

17 A Absolutely. So those stickers, ma'am, are
18 stickers -- one is one that has a picture of a marijuana
19 leaf and other types of drugs. And inside the circle it
20 says the name of the training company where I went to
21 interdiction training, and it says their motto, which is,
22 "We'll be leaving together shortly," because the
23 interdiction officer that teaches that in his traffic
24 stops does say, "We'll be leaving together shortly," and
25 ends up walking, making -- it's just the saying, the

1 statement he makes. So it's the motto of the company.

2 You also have pictures of a money load. That's
3 an air freshener hanging of a picture of a money load.

4 Q Okay. Tell me what we're looking at.

5 A The little air conditioner -- or the air
6 freshener that's hanging off the handle there in front of
7 him.

8 Q Oh, this thing?

9 A Yes, so that's an air freshener. And what it
10 is is a picture of money and bands with the I-35 symbol
11 above it.

12 Q All right. So let me just narrate that for a
13 second, because I did not see that at all.

14 A Yeah.

15 Q So there's an air freshener hanging from the
16 handle of the passenger side of the car. Not the door,
17 the passenger side of the car. And you're saying that is
18 like a stack of -- pack of money?

19 A Yes.

20 Q Okay.

21 A Yeah, like a money load is what we call it. A
22 lot of times in criminal interdiction, you'll have a lot
23 of people, usually heading southbound, with loads of
24 money. It's usually money involved in crime, so it's
25 packaged, and it looks like that and it's inside door

1 panels, inside engine blocks, under -- it's in
2 compartments. So that's what that is. It's a picture of
3 a money load.

4 I further have a picture of -- you don't see
5 it, but I actually have a marijuana leaf that you'll see
6 later on, so we don't have to freeze up on that later,
7 there's a marijuana leaf on the dashboard. I have a
8 picture behind him also of Jesus Malverde, which is a
9 narco saint.

10 Q Okay. Yeah, that's beyond me. What is that?

11 A It is a saint that the cartel uses within the
12 narco world. There's Jesus Malverde, Santa Muerte. It's
13 all part of the cartel stuff. Again, so in my training,
14 I have a, I think it's a 40-hour course I went to, and it
15 covers nothing but the history of narcotic saints within
16 the cartel world. So I'm trained in understanding that.

17 Because what happens is in a lot of cars and
18 things like that, you will find little statues of those
19 guys and stuff because they believe it protects them for
20 their ride with their illegal load.

21 So the reason now, now that I kind of explained
22 to you all throughout this car I do have visual things of
23 drugs and things like that. There's another sticker over
24 there, it says "Kilo Finder" or "Kilo Hunter," and it's a
25 picture of a car and it has little two crossed pry tools.

1 That's their little logo for the company. And there's
2 also a picture of a kilo of cocaine with a knife going
3 through it, and it says "Kilo Killer" on it.

4 So now the method to my madness of why a police
5 officer has drug pictures all over the inside of his
6 vehicle is we're going to talk about behavioral analysis.
7 We're going to talk about visual stimulation. So if I'm
8 an individual who is carrying drugs in my vehicle, and
9 I'm not talking about drugs, when you sit inside the
10 vehicle, and the last thing that you want to talk about
11 or even hear about, because you're extremely nervous
12 about the fact that you have drugs in your vehicle, is
13 drugs.

14 So with me not even saying anything about
15 drugs, when somebody is carrying narcotics or in
16 wrongdoing with any type of drugs, when they're in there
17 and they're looking at those stickers, it actually
18 induces behaviors. It is behavioral stimulation. So I'm
19 giving visual stimulation of money loads, drug loads and
20 things like that. So it's part of the, the behavioral
21 analysis I'm doing.

22 This also comes from my training, where if you
23 watch the videos in some of the classes I've gone to,
24 you'll also notice on the backs of computers, on
25 dashboards -- not on mine. I put mine on the dashboard.

1 But they have stickers throughout their vehicle as a
2 visual stimulation.

3 Q Okay. And that was a lot of information.
4 Thank you.

5 A Yes, ma'am.

6 Q So to summarize, you have a bunch of different
7 stickers, a money load, an MJ leaf, the kilo knife. And
8 the point of these stickers is to prompt a response. Is
9 that fair?

10 A If somebody's carrying drugs, yes. So a lot of
11 times in the norm, again, the general motoring public or
12 somebody who gets in the car, the majority of people
13 actually laugh and go, "Huh, what is this?" Because
14 again, it is not common for an officer -- it's not what
15 you expect to see inside the vehicle.

16 When somebody gets in -- and this isn't always,
17 this is just again maybe a piece to add to many things.
18 When somebody comes in and looks at that and doesn't say
19 anything and just kind of -- sometimes I've seen eyes
20 become this big, look at and just -- I've seen this.
21 Just all different things. But it's inducing certain
22 behaviors.

23 Q Sure. I get it. One of the stickers, the
24 first sticker you talked about you said something like,
25 "We'll be leaving together shortly" as a slogan. Can you

1 tell me, what does that mean?

2 MR. LEAKE: Objection, form.

3 A So the instructor of that company actually, he
4 always says that. He always --

5 Q (By Ms. Hebert) But "that," can you make sure
6 that I understand, because I might have gotten --

7 A "We'll be leaving together shortly."

8 MR. LEAKE: Make sure he finishes his answer,
9 please.

10 THE WITNESS: Yes.

11 A So simply what he would say is that he would do
12 his stop, and then what happens is he says, "All right,
13 I'm going to search your vehicle," after they give him
14 consent to search. He says, "We'll get your vehicle
15 searched, and then we'll be leaving together shortly."
16 And that was it. That was just his little saying, the
17 instructor. So that's just the motto of the training
18 company, "We'll be leaving together shortly." There's
19 like T-shirts and everything. There's bumper stickers.

20 Q (By Ms. Hebert) Okay.

21 A That's all that is is a motto.

22 Q Do you know what the point of the comment,
23 "We'll be leaving together shortly" was in the training?

24 A It really wasn't part of the training. Again,
25 it's just the motto. I think there was like the humor in

1 it, I guess, in the eyes of the instructor. That's just
2 his little slogan.

3 Q Okay.

4 A And like I said, there's guys walking around
5 with this stuff on T-shirts, baseball hats. It's a
6 slogan, like "Coca-Cola tastes great" or -- that's all it
7 is is a slogan.

8 Q All right. I'm going to watch another section
9 of the video.

10 A Yes, ma'am.

11 Q To 3:00 -- from 3:35 to 3:57.

12 A Okay.

13 (Video played.)

14 Q Oh, I went too far. But that's okay. We're
15 going through this faster. That's not a bad thing.

16 So you just asked Alek a couple of questions,
17 how to pronounce his name, where he's from. And he said
18 he lived in Houston. You asked him about a work trip,
19 and he responded that he was visiting a customer. Did I
20 get all that right?

21 A Uh-huh.

22 Q And then you asked him what he does for work.
23 And he said remote power; is that correct?

24 A Yes, ma'am.

25 Q Okay. And in this portion of the video, you're

1 typing on your computer.

2 A Uh-huh.

3 Q What are you doing here?

4 A I'm actually working on the warning.

5 Q Okay.

6 A So I'm actually -- the warning I told him we're
7 doing. So while we're talking, at this point, I'm going
8 to continue to work on the warning, because what I'm not
9 going to do is not be working on that warning and talking
10 to him, because at that point this would be the extension
11 side of a traffic stop.

12 Q Sure. And when you say "working on the
13 warning," what does that mean?

14 A So the Brazos electronic ticket writing system
15 is basically the ticket on the screen. Name, address --
16 so if I was to show you the old school paper tickets that
17 cops used to write, and they still do at times, it's that
18 on digital.

19 So what I'm doing is I'm typing in the
20 information. I'm typing in name, address, phone number,
21 precinct -- I'm trying to remember everything that was on
22 it. The violation itself, which one it is. It's all
23 that stuff. And then what it does is it prints out at
24 the end onto the printer.

25 Q Okay. Got it.

1 A And it will say -- because this is a warning,
2 it won't say citation on it, it will say warning showing
3 that -- and I'll explain to him, "This is your warning.
4 You don't have to do anything." I always say, "You can
5 frame it, burn it, or throw it away. It doesn't matter.
6 We just have to give you something due to the Sandra
7 Bland Act."

8 Q I understand. Okay. We are stopped at 4:05.
9 I'm going to play -- I'll let you know when I stop.

10 A Okay.

11 (Video played.)

12 Q Okay. In the part that we just watched, I
13 believe you asked Alek about his work in remote power
14 because you didn't know what it was.

15 A Yes, ma'am.

16 Q And he said he deals with helium filled
17 engines. Did I get that right?

18 A Uh-huh.

19 Q And it looked like to me you pulled out your
20 phone there. What were you doing with your phone?

21 A I don't remember. I don't know if I was
22 getting a text or I -- I don't remember. Most likely
23 somebody was texting me. I don't know if it was -- I
24 don't know.

25 Q Okay.

1 A Yeah, I just don't remember. I wish I did, but
2 it's a long time ago.

3 Q I understand. So I guess would it be fair to
4 say when you're working -- when you're using your phone,
5 you weren't working on the warning.

6 A Yeah, you could say that.

7 Q So I just want to make sure that was clear.
8 When you -- when you're using your phone, are you working
9 on the warning?

10 A No, I'm not.

11 Q You asked Mr. Schott where his customer was
12 located, and he responded "Carrizo Springs" --

13 A Uh-huh.

14 Q -- is that right, in the clip we just watched?

15 A Yes, ma'am.

16 Q And is there anything suspicious about Carrizo
17 Springs?

18 A No, not the place itself, ma'am. I will bring
19 to your attention that when he got in the car, earlier in
20 the video, and pretty much here, that he still, as we
21 talked about, breathing hard. And you can see the rise
22 and fall of his chest is pretty, pretty heavy, especially
23 when he first got in the car.

24 Q Well, let's go back a little bit --

25 A Okay.

1 Q -- so I can better understand that.

2 A Since you weren't able to see it the first
3 time, I can just kind of show you here.

4 Q Yeah, that would be helpful. So we are at
5 3:25. And why don't you tell me when to stop when
6 there's a good point for me to observe it.

7 A Yeah, just watch his chest, and I can actually
8 show you. It doesn't stop.

9 (Video played.)

10 A Yeah, you can see here, his chest, it's coming
11 up and down.

12 Q Okay. I'm going to just tell the court
13 reporter that's -- we've just stopped at 3:57.

14 A Okay.

15 Q And you're saying at this point Mr. Schott was
16 breathing -- how would you characterize his breathing?

17 A He was breathing hard. You could see the rise
18 and fall of his chest, and I can actually hear him
19 breathing. Like I can hear the --

20 Q Sure.

21 A -- the air going in and out. So again, this by
22 itself is nothing, until we -- but it's just -- what I'm
23 doing for you, ma'am, as we're talking and watching this
24 is building again the groupings of the reasonable
25 suspicion leading me to each step we're getting to.

1 Q Sure. And at this point, Mr. Schott had just
2 sat in your patrol vehicle; is that correct?

3 A Yes, ma'am.

4 Q And would it be normal for people to have a
5 spike of anxiety when they're seated in a patrol vehicle?

6 A Yes.

7 Q And would you put -- when you're arresting
8 someone, would you put them in the back seat of your
9 patrol car?

10 A Yes, in the back seat.

11 Q Okay. We're going to watch from 3:57 where we
12 are to 4:36. I'm going to try to start --

13 A Okay.

14 (Video played.)

15 Q Okay. We actually ended at 3:37.

16 MR. ROWES: 4:37.

17 Q (By Ms. Hebert) 4:37. Excuse me. You asked
18 Alek how far Carrizo Springs was.

19 A Uh-huh.

20 Q And you indicated you were not from Texas and
21 were from Maine, is that right, what just happened?

22 A Uh-huh.

23 Q And Alek responded that he drove last night and
24 it was too far to drive in the morning. Did I get that
25 right?

1 A Yes. I was having trouble hearing him because
2 when we were talking about these things, he was talking
3 at a pretty low volume.

4 Q Okay.

5 A I put in my report -- I was reading it -- it's
6 just bad -- again, my verbiage, low tone. It's not a low
7 tone. It was a low volume is what I should have said.
8 He wasn't talk- -- I realize that tone is bass, not
9 sound. So again, to clarify, volume is what I'm saying.

10 Q So he was speaking quietly. Is that fair?

11 A Quietly, yes, a low volume or just quietly.

12 Q And is there something suspicious about
13 speaking quietly?

14 A When compared to other times -- for example,
15 ma'am, in my training what I've learned is if I'm talking
16 to you -- let's say I'm baseline questioning. I'm asking
17 you, "Hey, how are you doing?" Or "What's your mom's
18 name? What's your daughter's name?"

19 "Oh, that's great." Ten-year-old child.

20 "Yeah, my daughter's name is Katherine and
21 she's ten years old."

22 "Oh, awesome. Where are you heading to today?"

23 "Oh, I'm heading to..."

24 This is what I'm talking about. When here
25 you're not there, but when I get you talking about

1 certain things, your voice drops to a tone, a lower
2 volume. So that's, that's what I'm talking about with
3 the lower voice volume --

4 Q I understand.

5 A -- compared to other times you'll hear him
6 speak and stop.

7 Q Okay. I'm going to play till 4:55.

8 A Okay.

9 (Video played.)

10 Q We stopped at 4:57.

11 A Okay.

12 Q You asked Alek what hotel he was staying at.

13 A Uh-huh.

14 Q He said -- I think he said Holiday Inn, but I
15 could be mistaken.

16 A I think so.

17 Q You said something like you stayed at one the
18 other day. And he made a joke like, "I don't feel any
19 smarter for having stayed at one." I don't know why that
20 would be funny or why anyone would feel smarter having
21 stayed at a Holiday Inn, but that was the joke, I think.
22 And you laughed --

23 MR. LEAKE: You should watch more TV
24 commercials. That's their campaign.

25 MS. HEBERT: Oh, okay. Well, I missed that

1 one.

2 MR. LEAKE: "I stayed at a Holiday Inn Express
3 last night."

4 Q (By Ms. Hebert) I did not know that. Okay. So
5 I was missing some of the context. And you gave some
6 details about a hotel you previously stayed in.

7 A Yes.

8 Q Is that a good summary?

9 A Yes, ma'am. I want to just -- at this point, I
10 do want to show you that, for what I'm trying to do
11 during this traffic stop, what I'm looking at here is I'm
12 there. So he's comfortable. He's laughing, he's joking.
13 And we're now at a place where I feel like he's pretty
14 relaxed. Body language, he's sitting not erect in the
15 seat. He's actually slumped. He's very comfortable at
16 this point, making jokes.

17 Q Okay. I'm going to go back just a little bit.

18 A Okay.

19 Q So we're at 4:27. I'm going to start, and I'm
20 goes to press play in a second and watch to about the
21 same point, 4:55.

22 A Okay.

23 Q And when we watch this again, I -- would you
24 mind paying attention to what you're doing, not
25 necessarily what Alek's doing?

1 A Uh-huh.

2 Q Okay.

3 (Video played.)

4 Q Okay. We stopped at 4:48, so --

5 (Video played.)

6 Q Okay. I just stopped at 4:49 [sic].

7 A Okay, ma'am.

8 Q You have your hand on your keyboard. What are
9 you doing on your keyboard. Looks like you're pressing
10 one key.

11 A So if I'm holding his driver's license,
12 because, again, I'm not seeing the screen either, most
13 likely what's happening is before I actually type the
14 warning, I'm most likely typing his information into the
15 TCIC/NCIC system.

16 And as we talked about earlier, when we click
17 on the blinking printer with all the pages, I can also do
18 from the keyboard to switch the pages. So most likely
19 what I'm doing is looking at his background info and
20 going through the pages of that and making sure he has no
21 warrants. And I think we get into a conversation about a
22 traffic ticket he got, and I'm looking at it because I
23 get to that page where it shows he went to some sort of
24 traffic school.

25 Q Okay. I'm going to press play again, and we're

1 going to stop -- we're going to run from where we are at
2 4:59 to 6:01.

3 A Yes, ma'am.

4 (Video played.)

5 Q Okay. We stopped at 6:02. I missed it a
6 little bit. Just to kind of summarize what we just
7 watched, you told Mr. Schott that you were giving him a
8 warning, not a ticket again; is that correct?

9 A Yes.

10 Q And then you seemed to type on your computer a
11 few more times.

12 A Uh-huh.

13 Q Is that right?

14 A Yes, ma'am.

15 Q And then you picked up your phone; is that
16 right?

17 A Yes, ma'am.

18 Q And what were you doing on your phone at this
19 point?

20 A I don't remember. Again, it's most likely
21 texts coming in. And if I'm looking at it during a
22 traffic stop, it's probably something to do with the
23 traffic stop. I'm not going to be -- I'm definitely not
24 like messaging a girlfriend or something like that.

25 Honestly, looking at it I really wish I wasn't

1 on the phone so much. I don't -- like I will tell you
2 right now that I don't like looking at that, because that
3 is -- like you said, it is something -- if I was to do
4 something better on this stop, that's one thing I would
5 try to improve on.

6 Q Sure. When you told Alek, Mr. Schott, that
7 this thing you were giving him looked like a ticket but
8 was a warning, had you finished at that point running all
9 the computer checks on Mr. Schott?

10 A I don't remember. The reasoning of telling him
11 that was because I could tell he wasn't so comfortable
12 anymore. And if you watch the video that you were just
13 watching, he was really watching the screen a lot. And I
14 started -- to me, he started to look very concerned. So
15 I wanted to clarify again that, look, this thing looks
16 like a ticket, because it does on the screen too, but
17 it's a warning. And the reason I did that is because I
18 was watching his behavior shift to nervousness again and
19 his eyes were going to the computer and he didn't look --
20 he was starting to look nervous.

21 Q Sure.

22 A So again, through my peripherals, I'm actually
23 watching everything that's going on in this vehicle with
24 Mr. Schott.

25 Q Okay. Let's watch to 6:13.

1 (Video played.)

2 Q Okay. We watched 6:02 to 6:14. You asked
3 Mr. Schott when was the last time he came down this way,
4 and I didn't catch his response. Could you hear his
5 response?

6 A No, ma'am. Because again, he's very low in
7 volume at this point because we're talking about his
8 trip. What I did hear him say, when I didn't ask him
9 anything, was -- as he was getting in the vehicle
10 earlier, he had said, "I very rarely come down this way."

11 Q Sure.

12 A So I was just kind of in a way revisiting that
13 to see if he says something different.

14 Q Sure. And did you have any reason at that
15 point to think that that wasn't true?

16 A With the low volume when we talk about his
17 trip, and then when he's talking about -- when he's
18 joking and laughing, I can hear him clearly. As you can
19 see, I'm at this point starting to realize that he's
20 going to a low volume voice any time we're talking about
21 stuff with his trip.

22 So at this point I'm starting to think that
23 possibly he's being deceptive with something. I don't
24 have proof of that. But again, with my training, low
25 volume voice is another one of those factors that can be

1 added into reasonable suspicion --

2 Q I understand.

3 A -- for a possible crime.

4 Q So but it -- I just asked you about whether you
5 had any reason to think that Mr. Schott was lying or not
6 telling you the truth about coming down this way. Did
7 you have any reason to believe that that wasn't a true
8 statement?

9 A I'm just -- right now, I'm actually asking
10 those questions because the low volume voice --

11 Q Okay.

12 A -- is giving me a reason to think that possibly
13 he's lying.

14 Q Okay. So other than the low volume, was there
15 any other reason?

16 A No. Again, I'm grouping, so I guess yes,
17 because the rise and fall of the chest -- I'm going to
18 keep repeating as we keep going, ma'am, and I'm not
19 trying to be -- but I will keep going back, and I will
20 keep -- as this thing builds, I will keep repeating to
21 you, rise and fall of the chest, low volume voice,
22 looking at the screen and looking nerv- -- I'm going to
23 start -- you're going to notice each time there's going
24 to be something new, because there was things that built
25 up to leading me to do everything I've done here.

1 Q That's fine.

2 A Okay.

3 Q Other than the physical reactions then that
4 Mr. Schott was having that you were observing, was there
5 any reason that you had to think that Mr. Schott wasn't
6 telling you the truth?

7 A No, ma'am.

8 Q Okay. So we're going to watch from 3:14 -- or
9 from 6:14 to 6:48.

10 A Okay.

11 (Video played.)

12 Q Okay. We're stopped at 6:49.

13 A Okay.

14 Q You -- to summarize, just trying to get the
15 gist of the conversation, you asked Alek if he liked
16 Houston and with you sharing that there was a lot of
17 crime in Houston. You talk a little bit about the crime
18 in Houston.

19 A Uh-huh.

20 Q And you shared a little bit about your recent
21 trip to Houston. Did I get the gist of that
22 conversation --

23 A Yes, ma'am.

24 Q -- right? Is there anything in this part of
25 the conversation that you observed, in addition to the

1 things you've already observed, that made you think there
2 was something suspicious going on?

3 A No. I mean, he was laughing and talking back
4 and forth. At this point we're having a conversation.
5 And it's not -- again, this is not an intimidation
6 factor. And I think we can clearly see that with him
7 laughing and having a conversation with me. He did start
8 talking -- I talked about the crime, and he actually
9 started talking about how bad the sex trafficking is over
10 there, and then I'm just telling him about the human
11 smuggling.

12 Now, one of the things that I'm doing there by
13 bringing up human smuggling is also -- again, we have
14 visual stimulation. I also say things audible, just to
15 see -- and I'm watching him as I'm talking about things.
16 It's a casual conversation to see if I get any type of
17 behavioral thing from the word itself of "human
18 smuggling."

19 At this time, before you ask, I did not see
20 anything at that time.

21 Q Okay. I just wanted to make sure. So that was
22 like a long description, but there was nothing that you
23 saw at that time that was suspicious.

24 A No, ma'am.

25 Q Okay. So we're going to watch from 6:49 to --

1 I'm going to try to skip some ahead. To 7:07, just to
2 try to --

3 A Okay.

4 Q -- move this along a little more.

5 (Video played.)

6 Q Okay. I just stopped at 7:07. You asked Alek
7 a couple of questions here, how to pronounce his last
8 name.

9 A Uh-huh.

10 Q He provided the clear pronunciation. Is that
11 fair?

12 A Yes, ma'am.

13 Q I think you also asked Alek's date of birth.

14 A Yes, ma'am.

15 Q What was his date of birth?

16 A I don't remember what he said right now.

17 Q Because I had a really hard time hearing it.
18 Could you hear it?

19 A Yeah. No, actually, I just wasn't paying
20 attention.

21 Q Okay.

22 A But I am doing -- that's what I'm doing there
23 is he is talking louder right now than he is, especially
24 as we get deeper into this when he's talking about the
25 trip.

1 Q Okay. So you would say that right now his
2 volume is louder --

3 A Yes, ma'am.

4 Q -- than other times.

5 A Yes, ma'am.

6 Q Okay. So we just watched from 6:14 to 7:07,
7 and you would say that his volume was louder there.

8 A Yes, ma'am.

9 (Video played.)

10 Q Okay. I just paused it on 7:46.

11 A Okay.

12 Q Just to summarize there, you asked Alek a
13 couple of questions about his truck; is that right?

14 A Uh-huh.

15 Q And he responded. And I want to be a little
16 precise here. Your first question was about the
17 ownership of the truck.

18 A Uh-huh.

19 Q And Alek provided the truck's year; is that
20 right?

21 A Yes.

22 Q And then you asked Alek a question about the
23 year of the truck, and he provided the year again.

24 A Uh-huh.

25 Q And you recognized that you had already asked

1 about the year and he had already provided it, and you
2 said something like, "Oh, you just said that." Is that
3 fair?

4 A Uh-huh.

5 Q Okay. Can you tell me what happened here? Why
6 did you miss Alek's response about the year of the truck?

7 A I just didn't catch it. There's no tactic to
8 that. I really didn't -- I just -- and I realized it and
9 was letting him know. And he's absolutely telling the
10 truth right now. He's very quick, he's where you can
11 hear him, and he's quickly answering those questions.
12 And he even gave me the mileage of his truck, which
13 absolutely for me, that makes me happy to know that
14 that's his truck.

15 Q Sure. And what were you doing on your computer
16 here that was taking away some of your attention?

17 A I'm still probably working on the warning.

18 Q Okay.

19 A Yeah. Like I said, it's going through the -- I
20 wish I had the Brazos in front of me, but it's -- a lot
21 of stuff you're typing in there. It's everything that's
22 on his license, and then you have to go into a drop-down
23 and you have to find the -- it's a pain in the butt.
24 You've got to find the violation in like a drop-down. So
25 what I'm probably doing is, while I'm talking to him,

1 looking for failure to maintain a lane or trying to
2 figure out like -- sometimes you can pretype and it will
3 bring it up. So that's probably what's going on right
4 now.

5 Q If we had like Mr. Leake or someone pull up the
6 Brazos ticket writing system --

7 A Uh-huh.

8 Q -- about how many minutes would it take you to
9 go through it right now?

10 A With the ID in my hand and me typing the way
11 you see my typing with a finger, I would say it can be up
12 to 10 or 15 minutes.

13 Q Okay.

14 A And again, I'm talking and typing. And I'm not
15 in any way a talented typer. I'm, as you see me with my,
16 at the time, chubby fingers, typing with my finger.

17 Q Okay. And just so we have a clearer record,
18 can you tell the court reporter what you were doing on
19 the table?

20 A Yes. I was single handed -- single finger
21 tapping on the table as I was typing on the keyboard in
22 the video.

23 Q All right. So we are at 7:46. We're going to
24 watch to 8:30.

25 (Video played.)

1 Q Okay. To kind of summarize what happened here,
2 there was approximately 15 seconds of silence to start.
3 Is that fair?

4 A Uh-huh.

5 Q You were typing on your computer and checking
6 your phone; is that fair?

7 A Uh-huh.

8 Q And then you talked a little bit about not
9 being from Texas and where you were from, and you told
10 Alek that you had been in Texas five years, you were from
11 Maine and you didn't want to go back to Maine because of,
12 understandably, Maine winters.

13 A Yes, ma'am.

14 Q At this point, you were still typing on your
15 computer and your phone.

16 A Uh-huh.

17 Q Is that fair?

18 A Yes.

19 Q And was there anything suspicious, additionally
20 suspicious in this conversation?

21 A Yeah. So this is where I'm actually making a
22 decision to go into my questions now about narcotics or
23 the way we do it in interdiction. What I did there was I
24 stopped talking and I created a silent pause. There's
25 different names for this within this type of work. Some

1 have said pregnant pause. But it is a silence thing.

2 What I was doing was being quiet and typing,
3 and I wanted to -- basically, as I'm typing, I'm kind of
4 observing his behavior. And what he ended up doing was,
5 at that uncomfortable silence, he ended up breaking and
6 initiating conversation with me.

7 Again, at this point, I'm typing to finish a
8 traffic stop. He actually opened up conversation and
9 then began to extend the stop with conversation about,
10 "Oh, you're not" -- "Are you from Maine" and continued.

11 So at that point, when he broke that silence,
12 for me that's just a little identifier or factor, if you
13 will, that will add to everything else we've talked
14 about.

15 At this point, within my training, that right
16 there is another identifier of possible, just the
17 nervousness and the breaking of the silence through
18 conversation and things like that.

19 So with this, heavy breathing, low, low tone
20 and everything else we've talked about, leading from the
21 beginning of the stop, I'm now going to go in and just
22 ask the questions.

23 By asking the questions I ask, I'm doing this
24 to see if I see anything or induce any type of behavior
25 by asking the questions I'm about to ask. And I'm sure

1 you'll ask me why each question was asked, so just we'll
2 watch it and I'll go into that, how that works also.

3 Q Sure. I understand.

4 A And again, I'm sorry, everything I'm doing is
5 off of my training. Nothing here is coming from the hip.

6 Q Sure. And everything that you're doing here,
7 had anyone from the Sheriff's Office told you not to do
8 these things?

9 A No. Nothing you've seen here.

10 Q Okay. We're going to watch from where we are
11 at 8:31 to -- going to try to watch all the way to 9:40.

12 A Okay.

13 (Video played.)

14 A So I'm definitely working on the warning,
15 ma'am. If I am getting his phone number, that's part of
16 the warning, so --

17 (Video played.)

18 Q Okay. I just stopped at 9:40.

19 A Okay.

20 Q This clip started off with you talking about
21 winters, Maine versus Texas.

22 A Uh-huh.

23 Q And then you jumped into asking Alek his phone
24 number; is that fair?

25 A Yes, ma'am.

1 Q You said you were doing the warning --

2 A Yes.

3 Q -- when Alek, Mr. Schott was giving you his
4 phone number.

5 A Yes.

6 Q Okay. Was there anything that you observed
7 there that was suspicious?

8 A No. At this point, I'm doing most of the
9 talking. I'm rambling on about everything and anything,
10 nothing to do with criminal stuff. And again, that's
11 part of my style of doing what I'm doing while I'm doing
12 the warning.

13 Q Okay.

14 A Because he asked about the -- where I'm from
15 type of thing.

16 Q And then you used your phone again, to be fair.

17 A Uh-huh.

18 Q And then after you put your phone down, you
19 shared with Alek a story about a sleepy driver and the
20 dangers of sleepy driving; is that right?

21 A Yeah.

22 Q And you mentioned pulling over drivers for
23 drifting just a little bit. Did I get that right?

24 A Uh-huh.

25 Q What is just a little bit of drifting?

1 A Like I talked about earlier, ma'am. Alls the
2 tire has to do is touch that line.

3 Q Okay.

4 A It doesn't have to go and hit the rumble strip.
5 It doesn't have to be an extreme crossover. The tire
6 touching the line is considered failure to maintain a
7 lane --

8 Q Okay.

9 A -- in traffic law.

10 Q And at this point, what we just watched here,
11 was there anything that was suspicious?

12 A No. No. We were just, at this point,
13 conversating.

14 Q Going to watch from 9:40 to 9:52.

15 (Video played.)

16 Q Okay. In the clip we just watched, got a call
17 coming in. Do you know who that was from?

18 A I don't remember. It's going to be one of two
19 people though. I can narrow it down, because the only
20 people that should be calling right now -- well, let me
21 make it three, because he likes to bother me on my stops.
22 Deputy Gereb is possibly one of them, trying to see what
23 the heck I'm doing. Sergeant Gamboa, or at this point
24 maybe Kiki through the -- because I think through the
25 WhatsApp, if I remember correctly, the way WhatsApp

1 worked, it's by phone number, and I think you can call
2 people on WhatsApp by pressing the phone on WhatsApp.

3 Q Okay.

4 A But I really don't -- I just don't remember
5 because it's so long ago.

6 Q That's fine.

7 A But any of this text traffic back and forth is
8 going to be between me and these people here.

9 Q Sure. We are stopped at 9:52. Let's keep
10 going. Let's watch to try to -- let's watch to 10:02.

11 (Video played.)

12 Q Okay. And we just watched -- in the section we
13 just watched, we're stopped at 9 -- or 10:02. You asked
14 about him having a newborn; is that fair?

15 A Uh-huh.

16 Q And you asked about whether he lived in a house
17 or an apartment; is that fair?

18 A Yes, ma'am.

19 Q Why would you ask if he lived in a house or an
20 apartment?

21 A Something about -- I was probably looking at
22 the address or something. But again, I'm just probably
23 just making conversation as we're sitting here doing
24 this.

25 Q Okay.

1 A And he's, with his smile and he's -- we're
2 having a conversation between me and him.

3 Q Sure. Let's watch from 10:02 to -- let's see
4 how long we can go. To 10:17. Not that long.

5 (Video played.)

6 Q I stopped on 10:19. To summarize what we just
7 watched here, you asked Alek what he was doing,
8 Mr. Schott what he was doing on his work trip.

9 A Uh-huh.

10 Q He responded he was doing a trial. You asked
11 him if he brought out equipment, and he said his customer
12 already had it; is that fair?

13 A Yes, ma'am.

14 Q Was there anything suspicious in what you just
15 observed?

16 A He got a little quieter on this one, started
17 looking out the window again. He hadn't looked out the
18 window for a little while. That was something else that
19 I was kind of reading in on that when we would talk about
20 things like this, he looks out the window more often.
21 Voice volume goes down. These are things that I was
22 taking in to perspective of behavioral.

23 Q And when you say "things like this," what do
24 you mean?

25 A Things as in behaviors that I'm recognizing

1 that when we talk about what he was doing or where he's
2 going, we get low in volume, we look out the window,
3 we're doing the things that -- all the little behaviors.
4 Things are behaviors is what I'm referring to.

5 Q Okay. We'll watch 10 -- to 10:45.

6 A Okay.

7 (Video played.)

8 Q Okay. In the section we just watched, you
9 asked a couple more questions about his work.

10 A Uh-huh.

11 Q He said something about a test run. Is that
12 accurate?

13 A Yes, ma'am.

14 Q And then there was like a little bit of
15 silence; is that fair?

16 A Yes.

17 Q Was there anything suspicious in what you
18 watched in this last clip?

19 A No.

20 Q And you talked a little bit in the previous
21 clip about Alek having a lower volume when he was talking
22 about some of these things; is that correct?

23 A Yes, ma'am.

24 Q And by "some of these things," you're referring
25 about -- you were referring to his work and his trip; is

1 that right?

2 A Uh-huh.

3 Q Could there be an innocent reason for him
4 having a lower tone when talking about those topics? For
5 example, if he didn't want to be going on this trip after
6 having a newborn?

7 A That could be a possibility. There's only one
8 way to find out, and it's to do what I'm doing here, in
9 criminal interdiction, and kind of, I guess you could
10 say, probe while I'm asking questions about this, then
11 asking questions about that, being questions about
12 family, listening, and then going into questions about
13 the trip, and then back to the weather in Maine. What
14 I'm doing is I'm actually moving the conversation around
15 to find deviations in behavior when talking about
16 different subjects within the analysis that I'm
17 conducting at this point.

18 Q Okay. And so just to unpack that a little bit,
19 to summarize, you're jumping around to these different
20 topics deliberately. Is that fair?

21 A Yes, ma'am.

22 Q Okay.

23 A That's off of the training I've received.

24 Q And when you say the training you received, you
25 mean the criminal interdiction training you had received?

1 A Yes, ma'am.

2 Q Okay. And did anybody at the Sheriff's Office
3 ever tell you that you shouldn't be jumping around in
4 conversation topics like this?

5 A No, ma'am. They hired me to be an instructor
6 at the academy because of what I've done.

7 Q So we'll watch from 10:45 to 10:53.

8 (Video played.)

9 Q Okay. You asked Alek in this portion -- we're
10 stopped at 10:53. You asked Alek in this portion, "Did
11 you go over there with somebody else?" And Alek
12 responded with, "Yeah, I met somebody there." Is that
13 fair?

14 A Yes, ma'am.

15 Q Okay. Was there anything in Alek's response or
16 his behavior here that you observed that was suspicious?

17 A No.

18 Q Okay. We'll watch from 10:53 to 11:13.

19 MR. LEAKE: When we get a minute, can we take a
20 bathroom break? No rush, just when you're at a stopping
21 point.

22 MS. HEBERT: Well, it depends on what it's
23 worth to you.

24 MR. LEAKE: Very embarrassing moment for
25 everybody in the room, you know.

1 MS. HEBERT: All right. We'll watch till
2 11:13.

3 (Video played.)

4 Q (By Ms. Hebert) Okay. I just paused at 11:13.
5 You asked Alek if he had ever been in trouble with the
6 law before.

7 A Uh-huh.

8 Q And he responded "Only for speeding"; is that
9 correct?

10 A Yes, ma'am.

11 Q And did you see anything on your computer
12 checks that led you to believe that Mr. Schott was not
13 being truthful about that?

14 A No. I believe -- if I remember correctly, I
15 was probably looking at the screen showing that he had
16 been in trouble for traffic laws. So I was just asking
17 him.

18 Q Okay.

19 A There's no reason to lie about something like
20 that, but I was kind of just doing a little check there
21 to see if he was going to be honest about that.

22 Q Sure.

23 MS. HEBERT: This is a good time for a break.
24 Let's take a break, and we'll come back in 5 minutes. So
25 what's 5 minutes from now?

1 THE REPORTER: 3:12.

2 MS. HEBERT: So how about 3:15?

3 MR. LEAKE: Sure. I like those good round
4 numbers.

5 THE REPORTER: Okay. We're off the record.

6 (Recess from 3:07 p.m. to 3:16 p.m.)

7 THE REPORTER: We are back on the record.

8 Q (By Ms. Hebert) Okay. We're going to watch a
9 big chunk right now.

10 A Okay, ma'am.

11 Q Just to try to like get through this.

12 MR. LEAKE: You don't want to do 10 second
13 chunks the rest of the day?

14 MS. HEBERT: I mean, I don't mind staying late,
15 Blair.

16 MR. LEAKE: Hey, I'm here for the day.

17 THE WITNESS: I know you have eight hours, and
18 I'm prepared for eight hours. So with 10 second videos,
19 we're definitely going to get it.

20 Q (By Ms. Hebert) So we're going to watch from
21 11:13, and I'm going to have us run to 13:39. All right?
22 So buckle up.

23 A Okay, ma'am.

24 (Video played.)

25 Q Okay. We just watched a big chunk.

1 A Yes, ma'am.

2 Q I'm not going to summarize it. I'm going to
3 let that generally speak for itself.

4 A Okay.

5 Q In response to the questions that you asked
6 Alek --

7 A Uh-huh.

8 Q -- Mr. Schott, did Mr. Schott have any -- give
9 any responses that were suspicious to you?

10 A So he actually did give me a response for
11 money. If you do a comparison of his answers to
12 everything I asked, he began to laugh to the money. It
13 was a laughter. I don't want to call it a outbreak of
14 laughter, but it was a difference in the other answers.
15 So in my training, what they teach you, this
16 is -- and that's why I asked him if he had been stopped
17 any other time, because if you get stopped in usually
18 southern Texas, you're going to be asked the questions
19 just as I just asked him. And the reason is is with
20 behavioral analysis, if I'm asking you a list -- if I ask
21 you, "Hey, do you have anything in your vehicle you're
22 not supposed to have," or "Hey, do you have any drugs in
23 your vehicle," if you don't have drugs or you're not
24 saying the exact name of the drug, the human behavior of
25 saying "Nope" is a lot easier than, "Do you have any

1 marijuana? Do you have any cocaine?"

2 What happens is -- and I have -- through my
3 videos, you can find people that completely show the
4 training works.

5 When I say, "Do you have any marijuana in your
6 vehicle?"

7 "Nope."

8 "Do you have any cocaine in your vehicle?"

9 "Nope."

10 "Do you have any heroin in your vehicle?"

11 "Absolutely not." Or "ha ha ha," or whatever.
12 It's different things.

13 So what I'm doing there is that. Now, on
14 money, he did laugh. And then I even joked around with
15 him a little bit about it and tried to make it like that
16 was no big thing. But in the training I have, that is
17 also another red flag of possibilities.

18 However, what I did make was the comment that,
19 "Well, if it's money, it's going to be going that way,"
20 because usually money and guns go south. However, in my
21 training and trade craft of smuggling, with what I got
22 for intel, if he had a female and he dropped her off at a
23 hotel, I then began to think to myself, okay, he's got a
24 female, he went to a hotel and dropped her off, maybe
25 that was his job, maybe he was doing something for

1 whatever he was doing, dropped this female off, and maybe
2 he was paid off for that trip.

3 So the fact that he laughed during the money
4 portion of that, and with my training in the trade craft
5 of smuggling, to me that's reasonable suspicion also of a
6 possible smuggling type case or some sort of criminal
7 activity involving money, so that gives me more interest
8 to want to search his vehicle to clear him of anything.

9 Q Sure. And I guess I have a couple of follow-up
10 questions to that.

11 A Yes, ma'am.

12 Q So the fact that Mr. Schott laughed in response
13 to being asked if he was carrying 10K --

14 A Uh-huh.

15 Q -- \$10,000 in cash was suspicious to you?

16 A Yes.

17 Q Okay. And you talked also about the fact that
18 the money, if he was -- the direction he was coming
19 was --

20 A North.

21 Q -- south to north. So he was coming north on
22 I-35?

23 A Yes, ma'am.

24 Q And that would be potentially different for the
25 money to be flowing that direction. But because he had

1 previously been with a female passenger and dropped her
2 off at a hotel, you were putting those together.

3 A Now, I need to clarify something, because I'm
4 making the mistake of -- my military background, I have a
5 bad habit of saying male, female. Male, female. Again,
6 he had a person with him. I want to make it clear that
7 her sex has nothing to do with any of my suspicion.
8 Because she was a female had nothing to do with it. I
9 just -- it's a bad habit to say male, female.

10 Q That's fine. There's no judgment here for
11 that. I understand. That's not a problem.

12 A It's the fact that he drove somebody to a
13 hotel, dropped them off. And now I've got -- with my
14 training it shows one of the differences you may see in
15 the answering portion is laughter. He gave me laughter.
16 Could it mean ten other things? Yes. But because of my
17 training, I can say, with everything else I've got, the
18 little tidbits I've told you, the grouping of that with
19 this, again, I just want to keep moving forward --

20 Q Sure.

21 A -- with what I'm doing.

22 Q And I guess one thing that sticks out to me
23 that I just don't understand. And earlier we talked
24 about the two buckets, the bucket of information that you
25 got from the --

1 A Yes, ma'am.

2 Q -- from the WhatsApp and then the bucket of
3 information that you got the call.

4 A Uh-huh.

5 Q It was my understanding that the hotel
6 information that was part of the call bucket. Is that
7 fair?

8 A Yes, ma'am.

9 Q Okay. Let's watch from 13:40 -- no, let's stay
10 here for a second before we go on from 13:40. You had
11 just said that you were calling a canine because you had
12 some reasons to suspect there might be something in
13 Mr. Schott's vehicle. Did I get that right? Do you want
14 to rewatch it?

15 A Did we get to that already?

16 Q I think so. We can go back a little bit.

17 A I don't know if we're there yet. I may have
18 missed it.

19 Q Let's go back. Going to watch from 3:20 to
20 3:40.

21 A Okay.

22 MR. LEAKE: 13:20.

23 Q (By Ms. Hebert) 13:20 to 13:40.

24 A Yes, ma'am.

25 (Video played.)

1 Q So we just stopped at 13:42.

2 A Yes, ma'am.

3 Q And did you see that you just said in that clip
4 that you were going to call a canine because you had some
5 reasons to suspect there might be something in
6 Mr. Schott's vehicle?

7 A Yes.

8 Q Okay. And when you said there might be
9 something in his vehicle, what did you mean by that?

10 A "Something" being money, drugs, people. I
11 don't know. I don't know at this point what's in the
12 vehicle. It's the behaviorals that I talked about that
13 tells me there's possibly something in there.

14 Now, I'm thinking maybe money, because of the
15 laughter. But again, I'm working on a grouping of
16 information. Okay? I'm not -- everything I'm doing here
17 is off of training. This is not me -- I'm not guessing
18 here. I'm saying money because he laughed on money. But
19 that doesn't mean that he may not have narcotics or
20 people or anything in there.

21 People that deal with narcotics, sometimes the
22 money is dirty and smells of -- so the dogs will sit for
23 money also. However, before I step on myself with that,
24 I will say this, there's no such thing as clean money.
25 And if he did have just money and no drugs to nexus that

1 money, what I would not be doing is taking his money from
2 him. So I want to make that clear.

3 Q Sure. And I --

4 A That's a whole other case, I know.

5 Q -- I don't mean to imply in any way that you
6 might have done that.

7 A Yes, ma'am.

8 Q So to summarize, you talked about the fact that
9 you didn't have a specific crime in mind that you thought
10 was being committed.

11 A Other than right now money, narcotics or --
12 it's something.

13 Q Okay.

14 A But no, I can't identify at this point.

15 Q Sure.

16 A I'm not going to guess, or God forbid, have a
17 hunch.

18 Q And the reasons why you are calling the canine,
19 just -- I've taken notes and I just want to summarize --
20 was the low tone -- or the low volume --

21 A Yes, ma'am.

22 Q -- in response to some of your questions. The
23 breathing --

24 A Uh-huh.

25 Q -- Mr. Schott's breathing. It was him looking

1 out the window at various points, breaking the silence at
2 one point, and then laughing in response to money. Did I
3 get everything?

4 MR. LEAKE: Objection, form.

5 A You have everything inside the vehicle.

6 Q (By Ms. Hebert) Sure.

7 A But now we can go ahead and add if you'd
8 like --

9 Q Sure.

10 A -- all the other things that we talked about --

11 Q Sure.

12 A -- on the approach of the vehicle. Because
13 now -- again, now, this is a totality of circumstances
14 situation. So now we're talking all the things I
15 observed in the vehicle to lead me to inside the vehicle.

16 Q Sure.

17 A So it all comes together. So we have, if you
18 want to call it a bucket, a good-sized bucket at this
19 point of reasonable suspicion, ma'am.

20 Q Okay. So inside -- and I completely understand
21 there are other things that were outside the vehicle. I
22 just want to talk about inside the vehicle.

23 A Uh-huh. Yes, ma'am.

24 Q So inside the vehicle, did I get it right, that
25 there was the low volume, breathing, looking out the

1 window --

2 A Uh-huh.

3 Q -- breaking silence and the laughter?

4 A Yes, ma'am.

5 Q Okay.

6 A And you're about to see kind of a statement
7 he's going to make that's odd also, which I added to my
8 bucket also.

9 Q Okay.

10 A Which we'll hear in a minute.

11 Q But at this point, from where we are at 13:42,
12 you had already told Mr. Schott that you were going to be
13 calling a canine.

14 A Yes, ma'am.

15 Q Okay. I'm going to watch from where we are for
16 a couple of minutes.

17 A Okay.

18 (Video played.)

19 Q Okay. And at this point you introduced to
20 Mr. Schott that you were doing behavioral analysis; is
21 that fair?

22 A Uh-huh.

23 Q And earlier today we've talked about some
24 behaviors that caused, raised at least some suspicion.
25 Is that fair?

1 A Yes, ma'am.

2 Q At one point we talked about being tense and
3 being very nervous --

4 A Uh-huh.

5 Q -- as being suspicious. Is that fair?

6 A Uh-huh.

7 Q And then we just talked about the fact that
8 Mr. Schott was laughing in response to a question as
9 being suspicious.

10 A Yes, ma'am.

11 Q Those seem to be, in tension, contradictory.
12 Can you help me understand?

13 A Can you repeat what you're asking?

14 Q Sure.

15 A I kind of lost you. I'm sorry.

16 Q So we -- you just introduced the concept of
17 behavioral analysis; is that fair, in that clip that we
18 just watched?

19 A Yes, ma'am.

20 Q We stopped at 14:02.

21 A Uh-huh.

22 Q So we watched from about 13:39 to 14:02. And
23 in that piece that we talked about we just watched, you
24 introduced the concept of behavioral analysis to
25 Mr. Schott; is that fair?

1 A Yes.

2 Q And earlier today we've talked about different
3 behaviors that might be suspicious.

4 A Uh-huh.

5 Q Is that fair?

6 A Uh-huh.

7 Q And we talked at various points about being
8 tense or breathing too heavy or too hard being a
9 suspicious behavior; is that right?

10 A Yes.

11 Q And then we just talked about the fact that
12 Mr. Schott laughed in response to you asking him about
13 having \$10,000 in the car; is that right?

14 A Yes, ma'am.

15 Q So there seems to be a tension between the fact
16 that you said being tense was suspicious and then
17 laughing was also suspicious. So can laughing be
18 suspicious?

19 A Yes, ma'am.

20 Q Okay.

21 A If you look at the training I've been through,
22 and probably other training that's out there I haven't
23 been through, that CIA and people like that use, there is
24 such a thing as nervous laughter. It's inappropriate
25 laughter at times that it's just kind of not appropriate.

1 Now, I understand where you might be able to
2 laugh at the thought of having \$10,000 or more. However,
3 it was excessive laughing and it was different from the
4 other answers there, and that's why I used it. But yes,
5 absolutely, again, not made up, laughing at inappropriate
6 times and things like this is a sign of nervous laughter.
7 It is a sign of nervousness.

8 And one of the books I've read that's in my
9 record called Evading Honesty, it's a complete book
10 that's about behavioral analysis and signs of deception.
11 In one of the chapters it actually talks for a couple of
12 pages and describes -- and if you watch the online course
13 that I also attended, they have videos of the laughter on
14 smugglers that were caught where they are laughing at
15 weird times or just over-laughing in like a questionnaire
16 like this.

17 So it is something I'm getting from training.
18 It's not me coming up with things.

19 Q So would you characterize Mr. Schott's response
20 on the video and in the traffic stop as over-laughing?

21 A I believe so. For me, and what I've seen, I
22 think it was. I thought it was excessive. I thought it
23 was different from his other answers, the seriousness of
24 each answer, and then there we kind of released. And
25 then I kind of kept going with it to kind of try to keep

1 it going just to kind of -- again, I don't want him to
2 feel like -- so I always try to add comfort to
3 everything. That's why I talk so much here. Not today
4 with you, but to him.

5 Q Okay. I'm going to try to skip a huge section,
6 so...

7 A Okay.

8 Q Okay. Let's actually take a break from the
9 video.

10 A Okay.

11 Q I know you'll be excited to hear that. Let's
12 look back at Plaintiff's Exhibit 8.

13 A Okay.

14 Q And let's go back to your report.

15 A All right.

16 Q And I'm going to read from the beginning
17 through to where he stayed at the hotel.

18 "I approached the listed Ford on the passenger
19 side of the vehicle. I made contact with a white male
20 that was wearing khaki pants and a gray sweatshirt. I
21 advised the driver who identified as Alek Schott of my
22 name and the reason for the stop. I advised Alek Schott
23 of my concern for sleepy drivers and immediately began
24 informing of me how he" -- "informing me of how he stayed
25 at the hotel." Did I read that correctly?

1 A Uh-huh.

2 Q Okay. So a couple of questions about that.
3 Was there anything suspicious about what Mr. Schott was
4 wearing?

5 A No, ma'am. That's just common police writing.
6 That's what we do commonly. That's what I teach in the
7 class of report writing for police.

8 So before the male or female, whoever I'm
9 dealing with, identifies themselves by ID or verbal, we
10 always show in the report a descriptor of what they look
11 like and what they're wearing. That's just common police
12 report writing.

13 Q Okay. And was there anything suspicious about
14 Mr. Schott staying in a hotel?

15 A No. Again, I think when I wrote this report, I
16 had made the mistake of kind of in my head it was -- I
17 felt like it was unsolicited. And again, when I reviewed
18 the video, I realized by saying "sleepy drivers" I
19 induced him to tell me about the hotel.

20 Q Sure. So if you were revising this today, you
21 would write that "I advised Mr. Schott of my concern for
22 sleepy drivers and he responded by informing me of how he
23 stayed at the hotel"? I don't want to put words in your
24 mouth.

25 A Yeah, something like that. I mean, I -- if I

1 even put it in the report.

2 Q Sure.

3 A Because again, the only reason I put that in
4 there was I was thinking unsolicited.

5 Q Okay.

6 A Until I corrected myself watching it again.

7 Q Sure. Let's read the next two sentences.

8 A Okay.

9 Q "I observed Alek Schott was sitting with his
10 hands up and then rested on the steering wheel."

11 A Uh-huh.

12 Q "Alek Schott looked to be" -- "looked to
13 breathing harder than normal by the rise and fall of his
14 chest." Did I get that right?

15 A Yeah. Bad punctuation, but yes.

16 Q That's okay. I would hate for someone to read
17 my writing like this.

18 So the first sentence, you saw Mr. Schott
19 sitting with his hands up in the air and then he put them
20 on the steering wheel. Is that fair?

21 A Yes. Here --

22 Q Uh-huh.

23 A -- and then yes, again, as we started talking,
24 he put them down. But again, initially he was hands up.

25 Q Okay. And when you said breathe -- when you

1 wrote "breathing harder than normal," what did you mean
2 by that?

3 A Just what I described in the report, the rise
4 and fall of his chest, as I showed you in the video, just
5 the way you could see -- because his chest wasn't doing
6 that at times, but there was times where within this
7 traffic stop -- if you watch his chest, you'll see at
8 times he's -- it's the rise and fall is excessive
9 compared to other times.

10 Q Okay. Would you characterize his breathing as
11 gasping for breath?

12 A No, not gasping.

13 Q Okay.

14 A Just breathing hard. Heavy breathing. Almost
15 like a -- I guess you could say how I sound when I start
16 searching a vehicle in this video, you'll hear me
17 breathing the way he was breathing. But my reason is
18 because I'm chubby. He is not chubby. But that's how he
19 was breathing. He was breathing as if he was winded from
20 something.

21 Q Sure. Let's read the next sentence. "Alek
22 Schott's hand was trembling when he handed me his
23 driver's license." I'm going to stop there.

24 A Uh-huh.

25 Q Can you tell me about the degree of trembling

1 that you saw?

2 A Yes. I don't want to show -- I guess I'll
3 describe it.

4 Q Why don't you show us, and then we can unpack
5 it from there.

6 A So he had the -- let's say the remote is his
7 ID. When he hands it, as I was bringing my hand up to
8 get the ID, I could clearly see the ID trembling.

9 Q Okay.

10 A It was trembling. So this does happen when
11 people are extremely nervous, but yes, it was trembling
12 when he gave me the ID.

13 Q Sure. Was his hand shaking so much that he
14 dropped the license?

15 A No, no, not him.

16 Q Okay. Now, we just watched a lot of your body
17 camera video.

18 A Yes, ma'am.

19 Q And you asked for Mr. Schott's license less
20 than a minute after pulling him over.

21 A Uh-huh.

22 Q Would you -- would it be fair to say that a
23 person could still be nervous less than a minute after --

24 A Yes.

25 Q -- being pulled over by the police?

1 A Yes, ma'am.

2 Q Let's say that again, because I think we
3 stepped on each other a little bit there.

4 A Sorry.

5 Q Would you -- would it be fair to say that
6 someone could still be very nervous less than a minute
7 after being pulled over by the police?

8 A At that point of the traffic stop, yes, ma'am.

9 Q I want to skip a little bit ahead. Towards the
10 end of this paragraph, you wrote that Alek Schott
11 agreed -- where is it -- "Alek Schott agreed to sit in my
12 passenger seat and exited the vehicle."

13 Did Alek ever say anything about agreeing to
14 sit in your vehicle?

15 A No, he didn't verbally say it, but by getting
16 out of the vehicle, he was agreeing.

17 And then I also said, after he got out of the
18 vehicle, I actually used the terminology "Thank you,"
19 meaning thank you for doing that, which also implies, if
20 we're going to break it up, that you have a choice when
21 I'm thanking you for doing something.

22 Q Okay. Let's go to the third paragraph here.
23 And it says -- I'll skip to the sentence -- I'll just
24 read from the third paragraph. "I came around the
25 driver's side of the vehicle and Alek Schott again placed

1 his hands in the air." Is that suspicious, him placing
2 his hands in the air, Mr. Schott?

3 A Yes. Yeah.

4 Q It was?

5 A Any time, any time a individual is doing this
6 (indicating), it's just -- it's excessive. It is, it's
7 considered nervousness.

8 Q Okay.

9 A It is not normal. People don't usually do this
10 unless they are guilty of something, with what -- in my
11 experience, when I've had people doing this, it's because
12 they're extremely nervous and usually are doing something
13 wrong. So it's almost like a -- it's almost like a
14 mental way of admittance, in some terms. And that's in
15 my training. Again --

16 Q Sure.

17 A -- you'll hear about that -- if you look at
18 that Evading Honesty book or watch the online course,
19 they actually show again video clips of people doing
20 this.

21 Q Okay.

22 A They give examples of it.

23 Q And when you say "this," just so it's clear for
24 the record, every time you've said "this" in the last
25 answer, you've been raising your hands in the air, just

1 to be clear.

2 A To show, yes, hands up.

3 Q So to summarize that, it is abnormal, it is
4 suspicious for someone to put their hands in the air?

5 A Yes. If I'm not telling you "Put your hands
6 up," or if I'm not telling you to put your hands behind
7 your back and things of that nature, and you
8 automatically do these things, those things are
9 considered, by my training, I've been taught that that's
10 a sign of somebody who's doing wrong and mentally they're
11 doing things without even knowing they're doing it. Like
12 this, or even the hands behind the back, almost like
13 they're -- knowing they're going to get handcuffed type
14 of thing.

15 Q Okay. I'm going to read another sentence.

16 A Yes, ma'am.

17 Q "Alek Schott sat in my passenger and was
18 explaining to me that he worked in remote power." Did I
19 read that correctly?

20 A Yes, ma'am.

21 Q I just want to clarify that statement. Did
22 Alek immediately launch into a discussion of his remote
23 power work when he sat in your patrol car?

24 A No, ma'am. So that is actually -- no, he did
25 not. I actually asked him before he was asking that. So

1 I think this was just a mistake.

2 Again, this is the day after, and I was only
3 writing the report because I knew he was going to
4 complain. So I didn't sit drastically with my -- if I
5 would have made an arrest, if this would have been an
6 arrest, I would have sat there and watched my video as I
7 typed my report, because that's what Bexar County
8 Sheriff's Office does and what they teach, because that's
9 what we do with our cameras.

10 This case, I was doing this -- the only reason
11 I was doing this report was because I knew he was
12 either -- I either was told he complained or I knew he
13 was going to complain. So I was kind of just going off
14 of, you know, what I was remembering.

15 Q Sure. In the next sentence, "I asked him where
16 he was heading, and he explained that he was going to see
17 a client that was testing his helium engines." Did I get
18 that right?

19 A Yes, ma'am.

20 Q And after watching your body camera footage,
21 would you change what you wrote here?

22 A The only thing I would change is that he got in
23 talking about that. I asked him about what he did for
24 work and he explained to me answering my question.
25 Everything else I would leave the same.

1 Q Sure. And I guess from what we just watched,
2 wasn't Mr. Schott returning home to Houston?

3 A Yeah. What did I write? I'm sorry.

4 Q You wrote -- "I asked him where he was heading,
5 and he explained that he was going to see a client that
6 was testing his helium engines."

7 A Okay. Yeah, I would change that to he
8 explained that he had just had a client test helium
9 engines or whatever it was he told me. So yeah, he had
10 just got done doing that because that's what he told me
11 he went out there for and was on his way back from that.

12 Q Okay.

13 A So yes.

14 Q I want to go to the last sentence of this
15 paragraph.

16 A Okay.

17 Q "I further observed that using the LPR systems
18 that Alek Schott had been on I-10 west at midnight the
19 night before heading south and had a one-day turnaround."

20 Did I read that correctly?

21 A Yes, ma'am.

22 Q So tell me about this statement.

23 A Okay.

24 Q We talked a little bit before about the
25 intelligence that you received before making this stop.

1 A Uh-huh.

2 Q Is this, the reference -- is this a reference
3 to that intelligence?

4 A No. So if I said I looked at the LPR system or
5 observed using the LPR system, that means that I, the
6 little pictures that you saw on the screen, that means I
7 looked at the LPR. And that must have been what I saw on
8 the LPR, showing that he had been traveling on I-10 west
9 at one point.

10 Q Okay. And was that suspicious to you?

11 A No. It's really just me confirming in a report
12 that he did do a one-day turnaround. The one-day
13 turnaround we talked about.

14 Q Okay. Sure. Let's read through the fourth
15 paragraph. I'm not going to read it all --

16 A Okay.

17 Q -- for you. Can you just review it?

18 A Uh-huh.

19 Q I don't think there's anything we really need
20 to discuss. I'll just ask you about the last sentence
21 there.

22 A (Reviewing document.)

23 Q "Alek Schott advised that he had some law
24 school." Did Mr. Schott tell you he went to law school?

25 A He had told me something about law school, yes.

1 And again -- so the reason I even put that in the
2 report -- I should have explained more. So with my
3 training and experience and the training -- I hate to use
4 such a -- that's such a thing. But training is really
5 where I get it. So by him telling me about, "Oh, yeah,
6 the reason I'm not letting you search my vehicle is due
7 to my time in law school" or "I went to some law class."
8 It's -- what's the word I always use? He's basically
9 trying to convince -- it's a convincing statement.

10 So I asked you to search -- I asked if I could
11 search your vehicle. You then said, "I wouldn't be
12 comfortable," or whatever he said. And then he started
13 trying to convince me. It was a convincing statements
14 of, "Well, you know, I" -- "with what I learned in law
15 school." And then, "For all I know, the guy that changed
16 my oil dropped a joint in the engine."

17 Again, this is not -- that statement alone
18 about the guy changing the oil and dropping a joint in
19 the engine, it's just -- it's just -- it's not normal.
20 That's not a normal statement to make. It's one thing,
21 he could just tell me no. But the convincing statements
22 of the guy dropping a joint in the engine, and then
23 talking about the law or whatever he said about law
24 school, I put it in there because it would be considered
25 convincing statements.

1 Q Okay.

2 A The better thing to do would be to just say
3 "no" when I ask if I could search your vehicle.

4 Q Sure. What's the difference between a
5 convincing statement and an explanation?

6 A Convincing statement is -- so the convincing --
7 an explanation -- his explanation is, a guy dropped a
8 joint -- a guy could have dropped a joint in the engine
9 block that was changing his oil.

10 A convincing statement would be "I know this
11 because of my law school," or another example that isn't
12 one that he said is, "I was in the military, I'm a
13 Veteran, I'm this, I'm that, I'm a good guy, I'm a father
14 of" -- convincing statements. You're convincing me that
15 you're not a criminal. So the law school thing to me is
16 also a form of convincing statement.

17 Q Sure. Let's go to Page 5, which is labeled BC
18 168.

19 A Okay.

20 Q And can you tell me what this page is?

21 A Yes. It is another incident report that I had
22 written. And it's saying -- you want me to keep going?

23 Q Sure.

24 A At some point I wrote a report and I said that
25 the dash cam was inoperable during the traffic stop. So

1 it's saying that Sergeant Gamboa was looking at the
2 footage and advised me that he could not find the footage
3 and then realized that the point of footage was not
4 there. All body cam footage however was there. So this
5 was already identified. I had not turned it on. This
6 was 20 -- so this was May 12 --

7 Q April.

8 A April 12.

9 Q So just want to make sure we're right about the
10 record. The date on this supplemental report is what?

11 A January, February, March -- April 12. I had to
12 use my fingers there, 2022. That's the infantry in me
13 right there.

14 So yeah, this is actually what I was dismissed
15 for. I used a horrible -- I guess a bad terminology. I
16 said inoperable. The camera's not in operation, because
17 as I stated in the first report, I did not turn it on.
18 It was in the off position; therefore, not operating. So
19 inoperable. They say the definition of inoperable is
20 broken. So there's my lie and there's my dishonesty of a
21 ten-year career.

22 Q Did Sergeant Gamboa ask you to write this
23 supplemental report?

24 A So according to this report, it looks like it.
25 I don't remember him telling me to write a report. As a

1 matter of fact, during the IA investigation, when they
2 showed me this, I was a little like, I don't even
3 remember writing this.

4 But if it's here and I'm saying that, I guess
5 he probably told me to write a report again. But I
6 really don't remember this report, and that's why when I
7 was doing -- when they were doing the IA, they showed it
8 to me. I'm like, Why would I even need to write this? I
9 don't remember. But if I did, it must have been a quick
10 write this and I knocked it out real quick, which I guess
11 is why I used a stupid word that --

12 Q Okay.

13 A -- apparently was a career ender.

14 MS. HEBERT: Let's take a brief break, if you
15 don't mind, Molly.

16 THE WITNESS: Okay.

17 MS. HEBERT: Just so I can get organized and
18 see how much we have left to cover.

19 THE WITNESS: Yes, ma'am.

20 THE REPORTER: We're off the record.

21 (Recess from 3:48 p.m. to 3:58 p.m.)

22 THE REPORTER: Okay. We are back on the
23 record.

24 Q (By Ms. Hebert) Okay. I just want to look at
25 your supplemental report just a little bit more.

1 A Okay.

2 Q It's BC 168.

3 A Uh-huh.

4 Q And before we took a break, you mentioned that
5 there was a poor word choice. What words were you
6 referring to?

7 A "Inoperable."

8 Q Okay. And why was that a poor word choice?

9 A To be blunt about it, because I was fired for
10 that word choice, because in the mindset of "inoperable"
11 means broken, that is why. Because my job looked at it
12 as it means broken, therefore they called it a lie. But
13 what I was talking about was inoperable was -- as I said
14 in the very first report, it was not on, so it was not in
15 operation. And I used the word "inoperable" here.

16 That's why -- I'm going to tell you right now,
17 ma'am, that if I wasn't fired for that word, I probably
18 wouldn't be calling it such a bad word. But that is why
19 I'm saying it's a bad word, because again, this is the
20 word that I was dismissed for.

21 Q Sure. And have you ever heard of someone being
22 dismissed based on their word choice?

23 A I've seen people dismissed for dishonesty.

24 Q Sure.

25 A I've never seen this, this type of -- I don't

1 want to use bad wording here, but no, personally, I have
2 never seen somebody be dismissed for a word in a report,
3 when a initial report shows I didn't turn on a camera.
4 So no.

5 Q Sure. And just to be clear, I mean, we watched
6 your body camera video at length slowly. Was there
7 anything in that body camera footage, anything in the way
8 that you actually did the stop that you were dismissed
9 for?

10 A No, ma'am.

11 Q And are you pursuing a grievance with the
12 Sheriff's Office?

13 A The only thing I'm doing through CLEAT is I'm
14 actually appealing it. Now that I've been fired -- I
15 appealed all levels because I wanted to get a face to
16 face -- well, I wanted a face to face with Sheriff
17 Salazar and Chief Serrato. I didn't get that, but I got
18 the Chief Serrato face to face. I really just wanted him
19 to tell me that I was dishonest, because I teach them
20 their in-service classes. So I just wanted to be in
21 front of him.

22 Now I'm appealing to where, I guess, it's
23 going -- and I don't know how the process works. I guess
24 it's going to go to the civil service board. And that
25 will take a year, I think is what -- it takes a while.

1 But yes.

2 Q Okay. And I think I saw this, and if I'm
3 wrong, like feel free to tell me. I'm speaking from
4 like -- I think I saw somewhere in a document where you
5 said that you had worked with Sheriff Salazar before; is
6 that true?

7 A What I mean by "worked with," he -- if you look
8 through my videos, there's videos of him actually backing
9 me up on traffic stops, showing up while I'm interviewing
10 somebody in the front seat. There's even a video of him
11 standing next to the passenger door with the window down
12 speaking to the guy that's on my traffic stop with me
13 while I'm doing my job. He's there speaking to him
14 backing me up on the stop.

15 He's sat in my vehicle, saw my stickers and
16 talked about, oh, and knew that that's visual stimulation
17 and understood. So Sheriff Salazar is in full
18 understanding of what I do, how I do it and what my
19 training is.

20 Q And did he ever say anything to you that your
21 tactics weren't, weren't right?

22 A Not at all, ma'am.

23 Q Did you have the impression he approved of your
24 tactics?

25 A Yes, ma'am. I have -- there's probably, if you

1 dig hard enough, videos of him saying what a good job I
2 do.

3 Q Okay. I want to look at another document.

4 A Okay.

5 MS. HEBERT: We're going to go to our Exhibit
6 O, Mr. Rowes.

7 A Ma'am, I don't mean to cut you off. Can I add
8 one other thing?

9 Q (By Ms. Hebert) Sure.

10 A So I had -- we're watching these videos, and
11 I'm noticing -- so in the video I do ask Alek Schott if
12 he has a passenger, if he had a passenger with him. And
13 what that's worrying me is that -- and then the amount of
14 texting I'm doing in the vehicle, I don't know -- I told
15 you that the time I found out about the passenger was on
16 the phone call. I don't know for sure that that's the
17 case. Because me to ask him if he had a passenger with
18 him, I don't know if I got that on WhatsApp or maybe in
19 one of these texts. I'm just -- I want to make sure that
20 I put out there that because of me asking him that, it
21 brings question to my brain that I may have heard it
22 before. I don't know for sure.

23 Q Sure.

24 A So I don't want to just say straight up front.

25 Q I -- this is your time to set the record

1 straight. So I appreciate that.

2 A Yeah.

3 Q I'm not trying to trick you on any of that.

4 A No, ma'am. I just want to put it out there,
5 because I can see how -- because I realize that I asked
6 him that, and then now that I'm watching all the text
7 traffic, I'm like, man, did it -- was it through that? I
8 don't know. So I just want to make it clear that --

9 Q Okay.

10 A -- because it was so long ago, I just don't
11 have exact time frames of that.

12 Q That's fine. That's fine.

13 A Okay.

14 Q Let's go to Exhibit O. And we're marking that
15 Exhibit --

16 MR. ROWES: 46.

17 A 46.

18 Q (By Ms. Hebert) -- 46.

19 A Okay.

20 Q Do you know what this document is?

21 A Internal Affairs Section, so -- no, I don't.

22 Q Okay.

23 A Oh, yeah, I see it now. It's my entire case it
24 looks like.

25 Q Right.

1 A Okay.

2 Q Let's flip to Page 20, which is Bates labeled
3 8321.

4 A What is it again? I'm sorry.

5 Q 8321.

6 A Where is that located, the number? On the
7 bottom of the page? Okay. Here we go. Okay.

8 Q Do you recognize this page? Is this -- are
9 these your initials at the bottom?

10 A Yes, ma'am.

11 Q Okay. And are these the answers to some
12 questions that you -- the -- let me rephrase that.

13 Are these interrogatories that you answered
14 with the Internal Affairs Section?

15 A Um --

16 Q At the top there's a title that says, "Internal
17 Affairs Section Interrogatories."

18 A Okay.

19 Q And then is that your initial here?

20 A On the bottom, yes.

21 Q And then we can flip to the back, which is Page
22 BC 8328. Is that your signature on the Officer Signature
23 line?

24 A Yes, ma'am.

25 Q Okay. So are these answers to questions? Are

1 these answers that you gave to questions that the
2 Sheriff's Office asked?

3 A Yes.

4 Q Okay. I want to look at Page 8323.

5 A 8323, okay.

6 Q And these are some of the trainings that you
7 attended?

8 A Yes, ma'am.

9 Q I don't expect this to be like the
10 comprehensive training list of every training you've ever
11 given.

12 A Yes.

13 Q So I just want to be clear about that.

14 A Okay.

15 Q But you listed several trainings here. And are
16 these generally the main trainings you would say you
17 relied on doing in -- you relied on in doing criminal
18 interdiction?

19 A Yes, ma'am, especially the 720 interdiction.

20 Q Okay. And do you have any materials still from
21 these trainings?

22 A I probably -- I had my certificate.

23 Q Right.

24 A And my notebooks and stuff, I probably don't
25 have them anymore.

1 Q Sure.

2 A Did I have a note -- so I've already like --
3 I'd have to dig, because I had a notebook that I would
4 take notes from the class.

5 Q Sure.

6 A So I can probably find that.

7 Q If you can look for it and provide it for your
8 attorney --

9 A Yes, ma'am.

10 Q -- that would be helpful.

11 A Yes, ma'am.

12 Q And these trainings, did Deputy Gereb attend
13 any of these trainings, to your knowledge?

14 A Yes. He attended some of the 720s with me.
15 And he himself had gone to a couple HITS. We did do DIAP
16 together. And we did do the Commercial Motor Vehicle
17 Interdiction together. As far as the Triple I's and the
18 Street Cop Trainings, I don't think he did any of those.

19 Q Okay.

20 A Those are some I did on my own.

21 Q And obviously he would know what trainings he's
22 been to.

23 A Yes, ma'am.

24 Q Okay. Let's go to Page -- let's go to Page
25 8337.

1 A Okay.

2 Q I'm going to ask you to look from 8337 to 8338
3 and then the next page, 8339.

4 A Okay.

5 Q Let me know when you have a chance to review
6 it.

7 A (Reviewing document.) Okay.

8 Q What is this document that runs from 8337
9 through to 8339? What is it?

10 A So when I run his driver's license, name, date
11 of birth, or I can run it by license number, this is what
12 comes up. So this is all his pedigree information of his
13 name, date of birth, all that stuff.

14 And then here is just his driving record
15 basically. So these are speeding tickets and safety
16 courses he's done. This is basically that background.
17 If he was to have, not so much criminal -- so traffic
18 warrants, then they would show up here. They would still
19 make noise for traffic warrants, but that's not -- you
20 have traffic warrants and criminal warrants. That would
21 also show up on this page.

22 Q Okay. I'm going to ask you what "make noise"
23 means. What does "make noise" mean?

24 A The dun-unt. The dun-unt from before.

25 Q Oh, the dun-unt. Okay. Sorry.

1 A I didn't think we were going to revisit it, but
2 yeah, dun-unt.

3 MR. LEAKE: I'm excited to see how you write
4 that in the transcript.

5 THE REPORTER: I was going to ask somebody how
6 to spell dun-unt.

7 MS. HEBERT: Drop a footnote and cite the first
8 two notes of Jaws.

9 MR. LEAKE: I was thinking the Mario Brothers
10 Level 3, but maybe I'm the only nerd in the room, I don't
11 know. Duh-nuh-nunt, duh-nuh-nunt.

12 Q (By Ms. Hebert) Okay. Anyway, I'm going to go
13 back to this document now. So is this what came up when
14 you entered Mr. Schott's information?

15 A Driver's license.

16 Q Or yeah, when you entered his driver's license
17 into your computer, is this what comes up?

18 A Yes, ma'am.

19 Q Okay. And if there's something problematic,
20 does it appear in red?

21 A Um --

22 Q This is just a question. I don't know the
23 answer to it. I just was curious about that fact.

24 A Not always. So like here it says the
25 expiration date --

1 Q Yeah.

2 A -- and we're good there. Now if this shows up
3 as an insurance screen, where it shows if it's eligible
4 or ineligible, so with the insurance screen, here being
5 red is not a good thing. So eligible means you have your
6 vehicle insured. Ineligible means that there's no record
7 of insurance for that vehicle.

8 Q Okay.

9 A So that is where it's problematic. But in this
10 case, this is not a problematic thing.

11 Q Okay. I guess I was just curious about that.
12 So if there was something problematic like further down,
13 would it be red or would everything just be green?

14 A Not on this page. The next thing would be if
15 he had a traffic warrant or any type of warrant, it would
16 be on the next page, and it would say "Traffic Warrant"
17 and that would be in red, and it would actually be -- if
18 I remember correctly, it blinks too.

19 Q Okay. So is there anything in here that is
20 suspicious or problematic, just in the record itself?

21 A No, ma'am. Because we were actually talking
22 about it while I was looking at it.

23 Q Sure.

24 A Remember we were -- he was laughing, talking
25 about the driving course.

1 Q And so what we're looking at here is a page and
2 a half.

3 A Yes.

4 Q And that's the entirety of the information
5 about Mr. Schott from his license?

6 A Yes.

7 Q Okay. I want to look at the next page, 8339.

8 A Okay.

9 Q And I see two dates here. 3/18 and 3/16. Am I
10 reading that right?

11 A Yes.

12 Q Does that mean you accessed Mr. Schott's
13 license information on two dates?

14 A Yeah. Yeah, that does.

15 Q Okay. I want to go to another exhibit.

16 A Okay.

17 MS. HEBERT: Mr. Rowes, can you hand Mr. Babb
18 Exhibit P. And we're marking this Exhibit 47. Thank
19 you.

20 Q (By Ms. Hebert) Do you know what this document
21 is?

22 A This looks like Vigilant. So this would be
23 Vigilant, the LPR.

24 Q Is this what you looked at when you pulled up
25 Mr. Schott's license plate? Is this how it looked for

1 you?

2 A No. So how it looks is as you see on the
3 screen, it's a snippet picture of the vehicle and then
4 next to it is the information of where. And that's all I
5 ever look at. I think if I was to click, if I remember
6 correctly -- because again, the only thing I would look
7 at on LPRs is what you saw on the screen.

8 Q Sure.

9 A I think if I click, it will do stuff like this
10 and show you more detailing.

11 Q Okay. So -- it's kind of like when you search
12 for something on Google, you get like snippets of all the
13 results, and then if you click on them, you'll go to the
14 page --

15 A Yes.

16 Q -- is that fair?

17 A You type in the license plate number and then
18 submit, I believe, and it just brings up all the little
19 pictures for Vigilant license plate readers wherever they
20 are and where they pick them up.

21 Q Sure. That's helpful. I want to look at the
22 first page, so I'm understanding some of these records
23 correctly.

24 A Okay.

25 Q Is the user here Officer Gereb?

1 A Let's see.

2 Q See in the column Camera Information, I see
3 User and I see Joe Gereb.

4 A Yes.

5 Q Does that mean that Officer Gereb's vehicle
6 scanned this license plate?

7 A Yeah. So if you look in the video, most likely
8 when -- because he likes to do that -- he pulled up next
9 to me on the traffic stop.

10 Q Okay.

11 A So when he did that, most likely what happened
12 was his LPRs zoomed his license plate.

13 Q Okay.

14 A So that's probably what that's from, ma'am.

15 Q Got it. And then I want to look at the next
16 page. It's BC 9707.

17 A Okay.

18 Q And is this also Mr. Schott's license plate?

19 A Let me see. LJR4135? Yes, ma'am.

20 Q Okay. And who -- let's look at the Camera
21 Information column.

22 A Okay.

23 Q And what agency is listed there?

24 A So that one says Fayette County Sheriff's
25 Office.

1 Q Okay.

2 A And then it's showing that it was an LPR
3 trailer. So you know those boxes that are on the highway
4 where they, you pass and it shows the speed you're going?

5 Q Yes.

6 A Those boxes also have license plate readers on
7 them. So those are also snapshotting vehicles.

8 Q Okay.

9 A So every time you pass one of those, your
10 vehicle is also getting your picture taken of it and its
11 license plate to show you're in that area.

12 Q So this record would be from something like
13 that?

14 A Yes.

15 Q And what time -- can you read what time the
16 vehicle was spotted and the date under the picture of the
17 vehicle? So look at where the truck is at the top --

18 A Uh-huh.

19 Q -- right. And the vehicle spotted, what time
20 and date was that spotted?

21 A Date, 3/15/22. Time, 6:52 p.m.

22 Q Okay. And then let's look at the next page, BC
23 9708.

24 A Okay.

25 Q This seems to me to be the same page as 9707,

1 but you might see something with your expert eye here
2 that's different. So if I'm missing something, please
3 point it out to me.

4 A Okay. First, I do want to make a correction,
5 as I stated earlier --

6 Q Sure.

7 A -- when it comes to LPRs, I am in no way an
8 expert. I literally hit "submit," look at the little
9 pictures and see where he's been. As far as once we get
10 into all this clicking --

11 Q Sure.

12 A -- I never do that.

13 Q Okay. So -- all right. That's a really
14 important, great caveat.

15 A I'm not an expert.

16 Q Well, maybe to your eye is there any --

17 A Yes.

18 Q -- is there any difference between Page 9707
19 and 9708?

20 A Doesn't look like it.

21 Q I don't see one. This is not a trick. I just
22 don't see one.

23 A I'm over here Where's Waldo-ing. No, I don't
24 see a difference, ma'am.

25 Q Okay. And then let's look at the next page,

1 9709. Do you see 9709?

2 A Yes.

3 Q And what's the agency here?

4 A Liberty County.

5 Q Okay. And what's the date and time?

6 A It is 3/10/22, and that's 4:37 p.m.

7 Q Okay. You're welcome to flip through the rest
8 of these records. There's not very many pages.

9 A Okay.

10 Q Is there a scan from you in here? I'm not
11 seeing one, but if you do see one and I don't catch it,
12 please let me know.

13 A I don't see one up to this point. And these
14 are all going back. So no, I don't see one from my, from
15 my -- so mine may have not been working, my LPRs. Again,
16 the pictures I'm looking at are from the other LPRs that
17 had come up.

18 Q Sure.

19 A So I don't remember. But I know we were having
20 problems with ours. And mine might have been -- we
21 actually swapped vehicles around a little bit, and I
22 think mine was having problems with not snapshotting.

23 Q That's fine. Can you tell me, look through
24 these pages and tell me where there was a midnight trip
25 on I-10?

1 A Let's see. (Reviewing document.) I'm not
2 seeing one in this packet, ma'am.

3 Q Okay.

4 A The only I-10 is this one here for 6:52.

5 Q Thank you. You can put that away.

6 A Okay.

7 Q You previously surrendered a phone to a cell
8 phone examiner --

9 A Uh-huh.

10 Q -- is that correct, in this case?

11 A Yes, ma'am.

12 Q And the phone you surrendered, I have the
13 number as 254 --

14 A Uh-huh.

15 Q -- 319-4621. Did I get that right?

16 A Yes, ma'am.

17 Q From January 2022 to today, did you have any
18 other cell phone?

19 A I had bought a new phone between the time frame
20 of this stop and now.

21 Q Okay. I wasn't precise.

22 A Yes.

23 Q That was my fault. Did you have any other
24 phone number, cell phone number between --

25 A No.

1 Q -- January 2022 and today?

2 A Other than when I became an instructor, I got a
3 County phone finally --

4 Q Okay.

5 A -- issued to me in the County for instruction.
6 But as far as my personal phone, no, it's been the same.

7 Q Sure. And what -- do you remember the number
8 of the County phone number that you had?

9 A I don't remember it on the top of my head. But
10 they definitely can tell you that, because they collected
11 that on my administrative leave. They took my phone.

12 Q Sure. And did you ever send text messages with
13 your county phone?

14 A Yes.

15 Q Okay.

16 A Within instruction world. I never had a county
17 phone, for whatever reason, during my time on criminal
18 interdiction or as a hostage negotiator.

19 Q Sure. I would like to look at some of the text
20 message conversations from your cell phone, if that's
21 okay.

22 A Yes, ma'am.

23 Q Let's look at Exhibit S.

24 (Discussion off the record.)

25 Q Okay. My colleague is handing you what's been

1 marked Exhibit 48. And I'll represent to you that this
2 is the conversation that the cell phone examiner produced
3 as conversation Number 2 --

4 A Uh-huh.

5 Q -- from your cell phone.

6 A I'm sorry.

7 Q Can you please review it?

8 A Yes.

9 Q And according to the forensic examination
10 results, this is a Facebook Messenger conversation --

11 A Uh-huh.

12 Q -- between you and Dennis Bengino [sic].

13 Bengino? I might be mispronouncing it.

14 A Benigno.

15 Q Benigno.

16 A It's a weird one. It's Italian.

17 Q Okay. Who is Dennis Benigno?

18 A Dennis Benigno is the CEO of the company Street
19 Cop Training.

20 Q Okay.

21 A He is the head owner of that company that runs
22 all kinds of law enforcement training, not just criminal
23 interdiction. Everything from canine to community
24 policing to everything and anything. He's got
25 instructors that work under him and teach all aspects of

1 law enforcement.

2 Q Okay. And how did you -- how do you know
3 Mr. Benigno?

4 A Through training. He's also an instructor
5 himself. He's -- in the world of law enforcement, he is
6 a case law mastermind. Basically he's a guy that can --
7 he knows case law. I can -- you can ask this man a
8 question, and he, through memory, knows, oh, the case law
9 that covers this is this, and this is how -- and in his
10 class, he teaches case law. But he's open to, if you
11 need help, roadside help, anything like that, most
12 instructors from the classes I go to give you that help
13 while you're on the roadside and things like that.

14 Q Okay. Can we look at the big paragraph of text
15 in the middle of the page?

16 A Uh-huh.

17 Q And the date on that, as I read it, is
18 April 24th, 2024. Did I get that right?

19 A Yes, ma'am.

20 Q And this seems to me to be a text message from
21 you --

22 A Uh-huh.

23 Q -- to Mr. Benigno; is that right?

24 A Yes.

25 Q And can you review it? I'm not going to read

1 the entirety --

2 A Yes.

3 Q -- of it to you.

4 A (Reviewing document.)

5 Q Can you let me know when you're ready?

6 A Yes, ma'am, I'm ready.

7 Q Okay. When you use the term "civil suit," were
8 you referring to the suit from Mr. Schott?

9 A Yes, ma'am.

10 Q Okay. And I want to look at the last sentence.

11 A Uh-huh.

12 Q "I'm not worried about this case, however I'm
13 just helping my lawyer to show him that [sic] I know I
14 can and can't do this job due to the training I've gotten
15 from y'all." Did I read that correctly?

16 A Yes.

17 Q I'm not asking at all about any conversations
18 with your lawyer, just to be clear. But the last part of
19 the sentence, I understand that phrasing to be, "to show
20 him I know what I can and can't do in this job due to the
21 training I've gotten from y'all."

22 A Yes.

23 Q Is that fair?

24 A Yes, ma'am.

25 Q And the training you were referring to was the

1 Street Cop Training from Mr. Benigno?

2 A Benigno, yes.

3 Q Okay.

4 A His and other classes with him, but him
5 specifically, he's where I learned a lot of my case law
6 and things like that when it comes to traffic stops.

7 Q Sure. Can you just give me a couple of the
8 takeaways from Mr. Benigno's trainings?

9 A Yeah. He was very clear on -- so I'll kind of
10 paint the picture. So I was on patrol, and I only had,
11 like we talked about earlier, I only had academy
12 training, and I only had Carl's training, the PTO. There
13 is no Carl. This is just a word I use.

14 But that's all I had, so I was literally just
15 looking at vehicles for violations and stopping vehicles
16 for violations. And I was getting nowhere other than
17 giving tickets and warnings.

18 I went to this class, and this class taught me
19 how to analyze driving behavior. He taught about driving
20 behaviors, case law of what we can and can't do,
21 explaining all the things that allows you to run criminal
22 interdiction type things to where you're watching the
23 driver and everything, rather than just vehicle and
24 violation.

25 He opened up the spectrum of finding crime

1 before it happens, through traffic stops, using case law.
2 So he opened my eyes and was the beginning of, wow, I can
3 do a lot more than I thought with this case law thing.
4 And then he became kind of like that guy, one of the
5 mentors that I had out there for case law, with his
6 knowledge of case law.

7 Q Okay. Thanks. That's helpful. We can skip
8 that.

9 Can we look at Conversation W?

10 MR. LEAKE: Is there another page?

11 MS. HEBERT: No, we're going to give it to you.

12 THE WITNESS: Oh, okay.

13 MS. HEBERT: We're going to mark this
14 Exhibit 49.

15 THE WITNESS: Okay.

16 MS. HEBERT: Thank you, Mr. Rows.

17 MR. ROWES: You're welcome.

18 Q (By Ms. Hebert) I'm going to give you a chance
19 to review it.

20 A (Reviewing document.)

21 Q You don't have to read the entirety of it.

22 A Okay.

23 Q I'm going to represent to you that this is the
24 cell phone -- this is what the cell phone examiner
25 produced as Conversation 17 --

1 A Uh-huh.

2 Q -- from your cell phone. And the examiner
3 retrieved these messages from your WhatsApp account.

4 A Okay.

5 Q Does that seem correct to you?

6 A Yes, ma'am.

7 Q Okay. And the examiner's records indicate that
8 these messages were under the label Northwest Highway
9 Group.

10 A Yes.

11 Q Is this the group that you talked about earlier
12 today?

13 A Yes, ma'am.

14 Q Northwest Highway Group?

15 A Uh-huh.

16 Q And I think that's all we need to do for that,
17 so you can put it to the side.

18 A Okay.

19 Q Okay. I think this is a good time for a break.
20 I have like one big section left to do, and then I want
21 to just clean up.

22 A Okay.

23 MS. HEBERT: So okay for a break?

24 MR. LEAKE: Whatever you need.

25 THE REPORTER: We're off the record.

1 (Recess from 4:24 p.m. to 4:34 p.m.)

2 THE REPORTER: We're back on the record.

3 Q (By Ms. Hebert) I want to clean up something
4 that you talked about a little before. You talked about
5 videos where Sheriff Salazar was talking to you and
6 talking about your criminal interdiction tactics and --

7 A Yes.

8 Q -- saying they were good and you were doing a
9 good job.

10 A Uh-huh.

11 Q Where would we find those videos?

12 A Body cam footage.

13 Q Okay.

14 A I don't know. I've had so many cases. But
15 it's -- he's been around me a couple of times. I'm just
16 saying I've done operations where he's been there.

17 Q Sure.

18 A There's never been a time that I've received,
19 when I've had face-to-face with him, anything negative
20 about what I'm doing.

21 Q Okay.

22 A He claims to have been interdiction at one
23 point, and he understands completely what I'm doing. And
24 specifically talking to him about the stickers, I don't
25 know if it was muted or not, but he sat in my car and we

1 talked about the stickers. So --

2 Q Sure.

3 A And again, everything I'm doing, again, is from
4 the training, so --

5 Q Sure. Okay. I want to watch another video.

6 A Okay.

7 MS. HEBERT: I forgot to turn the thing on.
8 Shoot. Sorry, y'all.

9 Q (By Ms. Hebert) Okay. I'm going to mark this
10 Exhibit 50.

11 A Okay.

12 Q And I'll just --

13 MS. HEBERT: I'm going to hand you a
14 placeholder. We'll send you the video when I figure out
15 how to get it to you.

16 THE REPORTER: Okay.

17 MS. HEBERT: This is just a cover sheet so that
18 I can hand that to her.

19 THE WITNESS: Okay.

20 THE REPORTER: Thank you.

21 Q (By Ms. Hebert) I'm just going to tell you this
22 is from what we have as your dash cam.

23 A Okay.

24 Q I want to watch the first part so you can get a
25 little context, and I'll skip to a portion.

1 (Video played.)

2 MR. LEAKE: What is the Bates label for this
3 one, do you know?

4 MS. HEBERT: I do. Hold on a second. Let me
5 find it. The Bates label for this is --

6 MR. ROWES: BC 307.

7 MR. LEAKE: Okay.

8 Q (By Ms. Hebert) Okay.

9 (Video played.)

10 Q I'm going to pause this. Hold on. There's
11 something that's creating these subtitles. I don't know
12 what it is. I'm just going to figure this out for a
13 second. Hold on.

14 THE REPORTER: Are we off the record for a
15 second or --

16 MR. ROWES: Yeah, let's go off.

17 MS. HEBERT: Let's go off the record for a
18 second.

19 (Discussion off the record.)

20 Q (By Ms. Hebert) Okay. I'm going to start this
21 video, Exhibit 50 again, we're at --

22 A Okay.

23 Q -- seconds, 30 seconds in.

24 (Video played.)

25 Q Okay. I'm just going to pause it there so we

1 can get the context. You're making a traffic stop here.

2 A Okay.

3 Q Is that fair?

4 A Yes, ma'am.

5 Q Can you tell this is you from this angle?

6 A Yes.

7 Q Okay. And I'm going to skip, skip ahead to a
8 later part in the video. You're welcome to watch the
9 whole video.

10 A Okay.

11 Q There's not really much to remark upon for a
12 good chunk of it.

13 A Okay.

14 Q And at this point I'm going to start at 10:50.
15 You're putting the driver back in his vehicle.

16 A Okay.

17 Q And then we'll watch from there.

18 A Okay, ma'am.

19 (Video played.)

20 Q Okay. We just watched a video -- was that your
21 voice?

22 A Yes, ma'am.

23 Q And who were you speaking with?

24 A That's Sergeant Gamboa.

25 Q Okay. I want to watch -- I'll just turn this

1 off so I can navigate. I want to watch the video again.

2 A Okay.

3 Q And I want to be like 100 percent transparent
4 with you.

5 A Okay.

6 Q We have added subtitles --

7 A Okay.

8 Q -- to this video. We've just clipped it to the
9 relevant points, so you don't have to watch the whole --

10 A Yes, ma'am.

11 Q -- traffic stop. And we've added subtitles.

12 A Okay.

13 Q What I want you to do is to review those
14 subtitles and tell me at any point whether those
15 subtitles are not correct, are not --

16 A Okay.

17 Q -- what's happening in the conversation. Jump
18 in, tell me, because I want a correct record --

19 A Yes, ma'am.

20 Q -- of what's being actually said.

21 MS. HEBERT: So I'm going to introduce
22 Exhibit 51. I'm going to give you a marker for that, so
23 we can remember to send it to you.

24 THE WITNESS: Oh, my bad.

25 Q (By Ms. Hebert) And this video is not Bates

1 labeled video, but it is just a clip of the prior one of
2 BC 307.

3 A Okay.

4 Q So I've got to turn this back on.

5 (Discussion off the record.)

6 Q Okay. I'm going to start this, and if you see
7 a spot that is incorrect, let me know.

8 A Yes, ma'am.

9 (Video played.)

10 Q Okay. Was there anything that the subtitles
11 did not get correct?

12 A No, they got it right.

13 Q Okay. I'm going to start from the beginning.

14 A Okay.

15 Q I'm going to ask you a couple of questions
16 about it.

17 A Yes, ma'am. I'll wait for the question, but I
18 do have something to add.

19 Q Sure. Well, let's -- let's -- let me ask some
20 questions first.

21 A Yes, ma'am.

22 Q So let's watch just a section of the video
23 we're going to watch from -- to -- we're going to watch
24 to 40.

25 A Okay.

1 Q Okay. I'm going to just pause it there, you
2 say it was one of those from the app.

3 A Uh-huh.

4 Q You're referring to WhatsApp?

5 A WhatsApp, yes, ma'am.

6 Q Is that correct?

7 A Sorry.

8 Q That's okay. And you're talking with Sergeant
9 Gamboa on this conversation. He's familiar with the
10 stop.

11 A (Nodding head.)

12 Q Is it fair to say that he has Mr. Schott on
13 hold at this point?

14 A I don't -- I don't know if that's what he meant
15 by that.

16 Q Okay. Well, I can --

17 A It did sound that way. I hope not. But he did
18 say that.

19 Q Sure. And when you said in here "The intel
20 stops from" -- "of a one-day turnaround," were you
21 referring to the one-day turnarounds we've talked about
22 with just a trip from one place to the other and then
23 back the same day, or a day after?

24 A Yes, ma'am. It's a common -- one of the things
25 with the travel patterns we've talked about, it's common,

1 the one-day turnaround is something that is a red flag.

2 Q Okay. Let's watch from 40 to 55.

3 A Okay.

4 (Video played.)

5 Q Okay. I'm going to ask, there's some terms in
6 here that I don't understand.

7 A Yes, ma'am.

8 Q So at the beginning of this section -- we just
9 watched from 0:40 to 0:55.

10 A Uh-huh.

11 Q At the beginning of this section, you said, "So
12 what I did to cover my ass in that report" at the start.
13 What is the report that you're referring to?

14 A So the report I'm referring to is this report.
15 In my training, what I've been taught is when you do any
16 type of intel stop, whether it be a DEA whisper stop or
17 whatever you're doing, a good way to, as I call cover my
18 ass or CYA, there's an actual acronym for it -- what that
19 means by "cover my ass" is -- and for whatever reason
20 that's what I usually put in here, which is why I thought
21 I did, I guess -- I didn't put that in this report.

22 Q Okay. I'm going to just pause you, because
23 there's a lot of terms you're throwing in that I don't --
24 that I think aren't clear for the record.

25 A Yeah.

1 Q So let's take a step back. When you say "this
2 report," what report are you referring to?

3 A The incident report for Alek Schott's stop.

4 Q Okay.

5 A So Number BCS 220059233.

6 MR. LEAKE: I would use the red one at the
7 bottom.

8 A Or BC 00 --

9 Q (By Ms. Hebert) Are you talking about
10 Exhibit 8?

11 A Yes. Yes. Exhibit 8. Sorry.

12 Q And -- let me find Exhibit 8 myself. And what
13 page are you referring to in here?

14 A The actual report I wrote on Page 3.

15 Q Okay. And you're talking about the general
16 report?

17 A Yes, ma'am.

18 Q Okay. So when you say "this report," you're
19 referring to the general report of Exhibit 8 that you
20 wrote on 3/18/2022?

21 A Yes, ma'am.

22 Q Okay. And when you -- what did you mean when
23 you said "subsequent to prior knowledge"?

24 A So what I usually put when I have an intel stop
25 is before I say I activated my red and blue emergency

1 lights, I usually put, and my training taught me that,
2 "subsequent to prior knowledge."

3 What that's doing is letting you know that I
4 did have PC, but by throwing "subsequent to prior
5 knowledge" in there it's also kind of informing you that
6 it was due to a type of intel.

7 Q Okay.

8 A What I was taught in my training by putting
9 "subsequent to prior knowledge" into your report, there's
10 certain cases, not this one, but there's certain ones
11 that are involving Homeland Security or DEA where there's
12 still kind of like ongoing things going on. So when
13 there's a federal case with like a FBI or DEA or anything
14 like that, by putting "subsequent to prior knowledge,"
15 when you go to court, if there's something you're going
16 to court for, they won't push any further on what's going
17 on in that case because of the fact it's a DEA case that
18 still has like CIs and things like that. So that's what
19 I was taught.

20 So what I'm telling him is that I put in this
21 report, which I didn't for some reason, "subsequent to
22 prior knowledge I activated my red and blue emergency
23 lights." That's why when I saw that and heard it, I'm
24 wondering why I didn't. And that's why today when I told
25 you I didn't put the intel in here and I looked like I

1 was bummed out about it, because that is the norm for me
2 to put "subsequent to prior knowledge" to show there was
3 PC, but it also shows a sentence in there to let you know
4 that there was also prior knowledge that I wanted to look
5 into this person for.

6 Q Okay. So I think I understand. So you're
7 talking about your general narrative report from the
8 SPEARS Summary.

9 A Yes, ma'am.

10 Q And you typically put a phrase, "subsequent to
11 prior knowledge," in your general narrative report --

12 A Yes.

13 Q -- for a stop. Is that fair?

14 A Yes, ma'am.

15 MR. LEAKE: Objection, form.

16 Q (By Ms. Hebert) And when you put that phrase in
17 there, what does that phrase mean?

18 A Subsequent to prior knowledge. It's letting --

19 Q I don't know what that means. I'm sorry.

20 A So subsequent to prior knowledge. So meaning
21 -- "subsequent" meaning before the prior knowledge of the
22 PC I observed, I had knowledge of something else. It's
23 just -- it's a vague way to let you know that, yes, this
24 was a PC stop but there was also other pieces, being
25 prior knowledge of intel.

1 Q Yeah. So --

2 A It's just what I was taught.

3 Q Okay. So do you usually spell out -- when it
4 is a subsequent-to-prior-knowledge stop, do you usually
5 spell out what the prior knowledge is or do you just put
6 that phrase in there?

7 A Absolutely not. Just the phrase. And again,
8 the reason we do that is, not in this case, but cases
9 where it's like a DEA case or anything like that -- let's
10 say it's what we call a whisper stop. A whisper stop
11 being you have a CI. A CI being an undercover person
12 that's in a case, maybe riding with a car that's got a
13 load of drugs in it, with let's say cartel or gang or
14 whatever, or smuggler.

15 Q Sure.

16 A I make that whisper stop, because I was told
17 ahead of time from the DEA that we've been working and
18 this car should have a load with 15 kilos in it. We're
19 not going to put all that stuff into a report because
20 it's dangerous for like the CIs.

21 So we use the term so that judges at the courts
22 can see "subsequent to prior knowledge." And what I was
23 taught in my training was with that sentence being before
24 I activated red and blue emergency lights, most judges
25 will understand that, oh, this is a federal case of some

1 kind and we're not going to push on that prior knowledge
2 because it might be an ongoing something bigger with
3 Feds.

4 Q Okay. So the prior knowledge that you're
5 referring to is some background knowledge other than the
6 traffic violation that you witnessed.

7 A Yes, it's just a way to --

8 Q Is that fair?

9 A Sorry. It's just a way to inform that you
10 received some information. In this case the prior
11 knowledge is that he was on a one-day turnaround trip
12 from Houston. It's just a way -- and when I say "cover
13 my ass," I mean cover my ass as in it's an intel stop,
14 and why I'm sitting here saying I didn't put -- that's
15 what I would have put, and I thought I did, I guess, when
16 I was talking to him on the phone, but that's what that
17 is. That's training for intel type stops.

18 Q Sure. And the "subsequent to prior knowledge"
19 is just a phrase that everybody who would know, would
20 know what it means?

21 A Anybody who's been to my class and according to
22 that instructor, judges know -- this is what I was
23 taught. I've never been in a situation where I'm on the
24 stand with a DEA case or anything. I was taught that you
25 put that in there so that they know it was a whisper

1 stop, but they're not going to push any further on it,
2 because if there's stuff still going on with that case.

3 Q Okay.

4 A Because that stop is a part of a bigger federal
5 case usually.

6 Q Sure. And that was a little confusing to me,
7 so I'm just going to break it down. You learned from
8 your training to put this code phrase in your report, for
9 lack of a better descriptor, to explain that you were
10 relying on other information; is that correct?

11 A Code phrase sounds a little weird to me. But
12 it's just a phrase that's self-explanatory, being
13 subsequent meaning I had prior knowledge of other things,
14 with my PC. Because I talk in the report, I noted -- I
15 observed the violation. So there's my PC. But to make
16 it completely clear what we always put in there is
17 "subsequent to prior knowledge, I activated my red and
18 blue emergency lights and initiated a traffic stop."
19 That way they know there was other things also.

20 Q Got it.

21 A But it still has PC. There's no -- as we
22 talked about here in this conversation, what he's stating
23 there was no PC.

24 Q Sure.

25 A Which is not the case.

1 Q Sure. And you said in the clip we just watched
2 "in case it ever gets questioned." Did you mean you
3 wanted something else in the report in case Mr. Schott or
4 anyone else ever questioned the stop?

5 A Questioned on the intel. Again, this statement
6 is for intel stop so that they can say -- so it shows
7 that I also had some intel that I was looking into on
8 this stop.

9 So in the training they use that term, to cover
10 your ass, CYA as we call it, "subsequent to prior
11 knowledge" just puts it in there that there was intel
12 involved also with, again, the PC. That's what I meant
13 by that. I know it sounds rough because I'm swearing and
14 I'm saying "cover my ass."

15 Q That's okay. I'm an adult. It's fine.

16 A But that's the terminology of "covering my ass"
17 is if it's an intel stop, we put that into our reports.
18 Again, I don't -- I failed to put it there.

19 Q Uh-huh.

20 A But I thought I did, because that is my norm to
21 put "subsequent to prior knowledge."

22 Q Okay. So to summarize there, you're saying
23 that the "cover my ass in my report" was referring to a
24 phrase that you sometimes use to indicate that you had
25 background prior knowledge before the PC into your

1 report.

2 A Yeah.

3 Q Okay. Let's watch from :55 to 1:07.

4 A Okay.

5 (Video played.)

6 Q Okay. Sergeant -- we just watched from :55 to
7 1:07.

8 A Uh-huh.

9 Q Sergeant Gamboa said, "This should be a traffic
10 stop." What did you understand him to mean?

11 A I don't know, if he -- like that is a traffic
12 stop. I don't know what he means by that. I was
13 actually -- right now, though, kind of what I explained
14 to you, I'm explaining to him the "subsequent to prior
15 knowledge" so -- because he hasn't probably been to that
16 training I've been to.

17 Q Sure.

18 A So I was explaining it to him why and what it
19 is.

20 Q Okay. And you next said, "It had PC." Does PC
21 stand for probable cause?

22 A Probable cause. That's what we call it in law
23 enforcement.

24 Q And were you saying that you had probable cause
25 to pull Mr. Schott over, based on the intel from the

1 one-day turnaround?

2 A No. No. That has nothing to do with the
3 intel.

4 Q Okay.

5 A No matter what I have for intel, as I said
6 earlier, ma'am, if I don't have PC, then he's going to
7 move on to the next county and hopefully they see
8 something. I'm letting him know that I had PC, which was
9 the failure to maintain a lane, which is what he's
10 denying. That has nothing to do with the intel. I'm
11 just letting him know that the PC was there, so I made
12 the stop --

13 Q Okay.

14 A -- with the intel I had.

15 Q And then you next said something like, "But
16 just in case they say he was being targeted or anything,"
17 what did you mean by "but just in case they say he was
18 being targeted or anything"?

19 A Because it's intel. And a lot of times in
20 historical investigations, in my training, they've talked
21 about other interdiction stops that end up with lawsuits.
22 A lot of times when there's any type of intel, especially
23 using LPRs, we're taught that sometimes they think
24 somebody's being targeted. And that's not the case. In
25 this case, it was just intel to look into the travel

1 pattern.

2 So I'm just explaining to the sergeant
3 everything that was going on with the stop.

4 Q Okay. You just mentioned other interdiction
5 lawsuits. Can you tell me what you meant by that?

6 A I don't have them on hand, but there's a lot of
7 interdiction lawsuits out there.

8 Q For Bexar County?

9 A No.

10 Q Okay.

11 A For law enforcement. I'm sure a lot of them
12 are under Institute of Justice, from what I've seen on
13 your website. So these type of lawsuits are out there.
14 And these are things that you learn in these classes
15 about these types of lawsuits. You're told that when you
16 go into interdiction at some point you're going to end up
17 possibly with a lawsuit due to the type of work we're
18 doing.

19 Q Okay. You next said, "I didn't lie."

20 A Yes.

21 Q Were you worried you could have been accused of
22 lying?

23 A Yeah, because he just had told me that Alek
24 Schott is talking about his dash cam and how he did not
25 cross the line and the video shows. So I'm just letting

1 him know, I don't know what that is, but I didn't lie and
2 there was PC for this stop.

3 Q Sure.

4 A I was just informing him, let's take a look at
5 that video.

6 Q Okay. And then you next said, "I didn't not
7 put something in there to show there" -- "that it was an
8 intel thing."

9 A So I was telling him again, what I didn't do --
10 so I really thought I put that in there, because I always
11 do with intel stops. So my verbiage is horrible. But
12 I'm basically telling him that I put that in the report,
13 and I didn't. But I thought I did because that is what I
14 usually put. And that's why today when we were talking,
15 I said I didn't put that in the report on the intel right
16 from the get-go.

17 Q Sure.

18 A Because that was a mistake. It's not something
19 we have to do, it's just something I do. And some
20 officers actually, within interdiction, and within
21 special operations, has told me don't put that in there,
22 because with whisper stops, they don't like it. But
23 that's just something I do because I learned it in my
24 training.

25 Q Okay. I guess I have a question about that.

1 A Okay.

2 Q Earlier today, we talked about the fact that
3 you don't usually write a general narrative report for a
4 traffic stop that's just a warning. Is that fair?

5 A Yes, ma'am.

6 Q And that you wrote a general report in this
7 case because Mr. Schott seemed to be suggesting that he
8 was going to say something about the stop; is that fair?

9 A Yes, ma'am.

10 Q So when you say that you typically put the
11 "subsequent to prior knowledge" in a report --

12 A Uh-huh.

13 Q -- does that mean you're only putting that in a
14 report when you find something?

15 A Yeah. So the only -- again, the only time I'm
16 writing a report is if I'm making an arrest. So if I did
17 an intel stop or a whisper stop with DEA or whoever, and
18 I arrested a guy and had 15 kilos of methamphetamine or
19 whatever it is, or whatever it is we find, I always put
20 "subsequent to prior knowledge, I activated my lights."
21 It kind of informs that this was also a whisper stop type
22 thing.

23 Yes, this here would not have been a report.
24 It's only a report because, again, I could tell
25 Mr. Schott was going to do a complaint. And any time

1 somebody complains, you're required to write a report.
2 So then I -- and again, I don't remember if I did it
3 after somebody told me about it or if -- I just don't
4 remember.

5 Q Sure.

6 A But that's the only reason there's a report for
7 this stop.

8 Q Sure. We're at 1:07. I want to watch from
9 1:07 to 1:12.

10 A Okay.

11 (Video played.)

12 Q I'm at 1:14. I'm sorry. I went too far. So
13 here you said, "Knowing that it was one of those, I was
14 very careful on that stop."

15 What does "knowing that it was one of those"
16 mean?

17 A An intel stop.

18 Q Okay.

19 A And knowing that, just off some of the ways he
20 was acting -- it is not the norm for me to walk an
21 individual from their [sic] car to their car and have
22 them inspect the car to tell me if there's anything wrong
23 with the car and if there's anything I need to put back
24 better.

25 Q I okay.

1 A I did that because I could see by his behavior
2 and just the way his -- he looked at that point, he was
3 agitated and he was most likely going to do a complaint.
4 So I was really just trying to do everything in my power
5 to show him that I don't want him to be upset. I want
6 him to look at the vehicle. I explained to him I did a
7 deep search. And that's what I meant by being careful.

8 Q Sure.

9 A I was doing more than I usually do.

10 Q Because you were concerned --

11 A Because I could see he was upset, and I
12 actually do care about the people I'm stopping, and I
13 could see he was upset, and I was trying to make him feel
14 better and also show him that I'm not trying to trash
15 your vehicle or anything of that nature. I could just
16 see that he felt that way by his face expressions.

17 Q Okay. So I guess I heard you say two things.

18 A Okay.

19 Q One, you were being careful because it was an
20 intel-based stop, and two, you were being careful because
21 you were concerned that Mr. Schott was upset.

22 A Yes.

23 Q Is that fair?

24 A Uh-huh.

25 Q Okay. Why would you have to be careful because

1 it was an intel-based stop?

2 A What I -- what I mean by that is it's
3 intel-based, so he's possibly involved in something, so I
4 was just very careful on my questioning and what I'm
5 doing and looking at. That's all I'm saying. If it's an
6 intel stop, there's more to it than a cold stop as we
7 talked about earlier.

8 So "careful" meaning -- again, this is just the
9 way I talk, so it just sounds weird, but careful being
10 I'm paying extra special attention to what he's doing.
11 And then, of course, with him being upset and being a
12 business owner and all these things, I know that he's
13 probably going to do a complaint or anything like that,
14 due to the traffic stop. Does that make sense or --

15 Q Sure.

16 A Okay.

17 Q I'm going to watch -- I'm going to go back a
18 little bit. And we'll watch from 1:12 to 1:15.

19 (Video played.)

20 Q All right. So I went over to 1:16. You said,
21 "Which is why I walked him to his vehicle and let him
22 inspect the fucking thing after we searched it." And
23 don't worry again --

24 A Yes, ma'am.

25 Q -- about the language. How does walking him to

1 his vehicle mean that you were being careful?

2 A Being careful meaning I don't, I don't usually
3 walk people on traffic stops to their vehicle to inspect
4 it after I search it. I was being careful to try to,
5 again, make him see that I want him to tell me if there's
6 anything wrong.

7 Q Sure.

8 A That's careful, because that is not the norm --

9 Q Sure.

10 A -- walking a man to a vehicle.

11 Q Sure. And we'll watch just a little bit more.

12 A Okay.

13 (Video played.)

14 Q Okay. At this point is it your understanding
15 that Sergeant Gamboa had Mr. Schott on hold?

16 A I -- honestly, I didn't even recognize him
17 saying that, but if he's saying that, I guess he possibly
18 does. That might be what they were talking about with
19 the other videos that I've seen.

20 Q Sure. I'm going to watch another portion.

21 A Okay.

22 (Video played.)

23 Q Okay. At one point in the video, Sergeant
24 Gamboa refers to the fact that Mr. Schott didn't get
25 cited for anything.

1 A Uh-huh.

2 Q Do you want to go watch that? Do you want to
3 watch that?

4 A No.

5 Q Okay.

6 A No, he wasn't cited. He was given a warning.

7 Q Right. And was Sergeant Gamboa referring to
8 the fact that Mr. Schott didn't have anything to
9 challenge because there was no ticket?

10 A I don't want to speak on behalf of what
11 Sergeant Gamboa meant by what he said. That's what it
12 sounds like, but that's something you would have to ask
13 him. I'm sure you already have or are going to, but I
14 don't want to speak for him whatever he meant by that.

15 Q Sure. What did you understand it to mean?

16 A The way I look at it he's saying you were given
17 a warning and you were released. There was no citation,
18 you weren't arrested. So I don't know if maybe that's
19 what he meant. But again, I don't know what he meant by
20 that. I understood it as he was just explaining to him
21 that you're complaining about a stop that you were
22 released with a warning. Nothing happened of this stop
23 other than the search and the positive canine alert.

24 Which again, I want to make it clear that I
25 have no -- nothing against Alek Schott. I understand

1 what's going on here, and I know why he's upset. But at
2 the same time, it's just -- that's what I think he meant
3 is you were released with a warning. You weren't taken
4 to jail or anything like that.

5 But again, I just -- by saying that, I want to
6 make sure you understand that I have nothing against Alek
7 Schott and think that this is a, a bad case or something
8 of that nature. So --

9 MS. HEBERT: Okay. I'll take a brief break,
10 and then hopefully we'll be done. Does that work for you
11 guys?

12 MR. LEAKE: Yep.

13 MS. HEBERT: Five minutes?

14 MR. LEAKE: 5:13?

15 MS. HEBERT: Yep.

16 THE REPORTER: We're off the record.

17 (Recess from 5:10 p.m. to 5:17 p.m.)

18 THE REPORTER: We're back on the record.

19 Q (By Ms. Hebert) Okay. I guess I have just a
20 couple of follow-up questions. We talked about the intel
21 you got --

22 A Yes, ma'am.

23 Q -- from WhatsApp. You knew that Mr. Schott's
24 truck was traveling on I-35 north. Was that fair?

25 A Uh-huh.

1 Q And you knew what kind of truck he was driving,
2 an F-250?

3 A Uh-huh.

4 Q Oh, okay.

5 MR. ROWES: Sorry.

6 Q (By Ms. Hebert) That's okay. Let's just take a
7 step back.

8 A Yes, ma'am.

9 Q Based on the intel, you knew that Mr. Schott
10 was driving north on I-35.

11 A Yes, ma'am.

12 Q You knew that he was driving an F-250.

13 A Yes, ma'am.

14 Q Did you know the license plate number?

15 A Yes, ma'am.

16 Q Did you know the color of his vehicle?

17 A Yes, ma'am.

18 Q And were you waiting for Mr. Schott where you
19 were parked?

20 A Yes, ma'am.

21 Q Okay. I'm going to watch a brief clip from
22 Exhibit 51. We're going to start at 55 seconds and go to
23 1 minute and 7.

24 (Video played.)

25 Q Okay. We just stopped at 1:07. You said,

1 "Just in case he was being targeted or anything."

2 A They use that word "targeting," as far as
3 targeted waiting on him.

4 Q Okay. But weren't you waiting on him?

5 A Yes.

6 Q And you were sitting on the side of the road
7 waiting for Mr. Schott to arrive, and there's highway
8 traffic, and Mr. Schott happened to drift over the fog
9 line right in front of you?

10 A It was a little farther back that I had seen
11 it. So yes.

12 Q So right in front of you, in your line of
13 sight.

14 A Within my line of sight, yes, ma'am.

15 MS. HEBERT: Okay. No further questions right
16 now. Pass. We're going to leave Mr. Babb's deposition
17 open, especially since we know we don't have all of the
18 records, but we pass the witness for now.

19 MR. SAENZ: We'll reserve ours until time of
20 trial.

21 MR. LEAKE: We reserve our questions until the
22 time of trial. And also we would like to read and sign,
23 let me put that on the record.

24 THE REPORTER: The deposition is concluded.

25 (Deposition concluded at 5:19 p.m.)

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2 returned, the attached Changes and Signature Page
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9 Further, I am not a relative or employee of any attorney
10 of record in this cause, nor do I have a financial
11 interest in the action.

12 Certified to by me on this 25th day of July 2024.

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3 July 29, 2024

4 RE: Schott, Alek v. Babb, Joel Et Al

5 7/15/2024, Joel Babb (#6725894)

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Joel Babb Date

Schott, Alek v. Babb, Joel Et Al

Joel Babb (#6725894)

ACKNOWLEDGEMENT OF DEPONENT

I, Joel Babb, do hereby declare that I have read the foregoing transcript, I have made any corrections, additions, or changes I deemed necessary as noted above to be appended hereto, and that the same is a true, correct and complete transcript of the testimony given by me.

Joel Babb

Date

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

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